

**Draft Proposed Consolidation
of the *Provincial Sales Tax Act***

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IMPORTANT NOTICE

The purpose of this draft proposed consolidation of the *Provincial Sales Tax Act* is to help businesses and consumers prepare for the re-implementation of the provincial sales tax (PST) on April 1, 2013.

This draft proposed consolidation of the *Provincial Sales Tax Act* is a consolidation of that Act, as passed in May 2012, with draft proposed amendments. The proposed amendments are subject to the approval of the Legislature. The government intends to introduce the amendments during the upcoming legislative session for debate and passage.

Every effort has been made to show what the *Provincial Sales Tax Act* would generally look like as of April 1, 2013, if the proposed amendments introduced into the Legislative Assembly are approved without further amendment. This consolidation is not a replacement for the official legislation.

Under no circumstances will the Government of British Columbia be liable to any person or business entity for any direct, indirect, special, incidental, consequential, or other damages based on any use of this draft document, including, without limitation, any lost profits, business interruption, incurrance of unnecessary expenses or loss of programs or information, even if the Government of British Columbia has been specifically advised of the possibility of such damages.

PROVINCIAL SALES TAX ACT

with draft proposed Amendments

Contents

PART 1 — INTERPRETATION

Division 1 — Definitions and Interpretation

- 1 Definitions
- 2 Proof of residence in British Columbia
- 3 Deemed expenses of a person
- 4 Transactions deemed to be transfer of possession
- 5 Carrying on business in British Columbia
- 6 Deemed use of tangible personal property or software in the course of business
- 7 How tax is to be calculated
- 8 Liability of other persons

Division 2 — Purchase Price and Lease Price

- 9 Purchase price of tangible personal property
- 10 Original purchase price of tangible personal property
- 11 Purchase price of tangible personal property related to affixed machinery and improvements to real property
- 12 Lease price of tangible personal property
- 13 Original lease price of tangible personal property
- 14 Purchase price of software
- 15 Original purchase price of software
- 16 Purchase price of promotional material acquired or received by promotional distribution
- 17 Purchase price of taxable service
- 18 Original purchase price of related service
- 19 Original purchase price of accommodation
- 20 Original purchase price of legal services
- 21 Original purchase price of telecommunication service
- 22 Reduced purchase price or lease price
- 23 Purchase price or lease price if coupon accepted
- 24 Purchase price if trade-in allowed on purchase of tangible personal property
- 25 Depreciated purchase price of tangible personal property
- 26 Purchase price if bundled purchase
- 27 Valuation by director

PART 2 — WHEN TAX IS PAYABLE

- 28 When tax is payable in respect of a purchase or lease
- 29 When tax is payable if tax not collected when consideration is paid or becomes due
- 30 When tax is payable in respect of vehicles
- 31 When tax is payable in respect of gifts of vehicles, boats or aircraft
- 32 Tax payment agreements in relation to tangible personal property and software
- 33 When consideration becomes due

PART 3 — TAXES IN RELATION TO TANGIBLE PERSONAL PROPERTY

Division 1 — Rates of Tax

- 34 Rates of tax in relation to purchase price
- 35 Rates of tax in relation to lease price
- 36 Rates of tax in relation to gifts

Division 2 — Purchases of Tangible Personal Property

- 37 Tax on purchase

Division 3 — Leases of Tangible Personal Property

- 38 Application of this Division
- 39 Tax on leases
- 40 Tax on motor vehicle leased outside British Columbia and registered for use in British Columbia
- 41 Tax if leased property used in and outside British Columbia during rental period
- 42 Tax if balance of lease price becomes due on breach of lease
- 43 Additional tax on lease of passenger vehicle
- 44 Exemptions in relation to leases
- 45 Refund for leased property used outside British Columbia
- 46 Refund on motor vehicle leased outside British Columbia

Division 4 — Tangible Personal Property Brought into British Columbia

- 47 Definition
- 48 Application of this Division
- 49 Tax if tangible personal property brought into British Columbia for use
- 50 Tax on registration of vehicle brought into British Columbia
- 51 Tax if tangible personal property brought into British Columbia for temporary use
- 51.1 Tax if tangible personal property no longer for temporary use
- 52 Tax if tangible personal property brought into British Columbia by non-residents
- 53 Exemption if less than minimum threshold use in British Columbia

Division 5 — Property Brought into British Columbia from Outside Canada

- 54 Application of this Division
- 55 Tax if property brought into British Columbia from outside Canada
- 56 Detention of tangible personal property

- 57 Tax payable to collection agent even though exemption claimed
- 58 Refund if property brought into British Columbia for temporary use

Division 6 — Conveyances Used Interjurisdictionally

- 59 Definitions
- 60 Tax if conveyance purchased in British Columbia for interjurisdictional use
- 61 Tax if sale and lease-back of conveyance
- 62 Tax if conveyance leased in British Columbia
- 63 Tax if conveyance brought into and used in British Columbia
- 64 Tax if change in use of conveyance acquired for resale
- 65 Estimate of hours or distance conveyance will travel
- 66 Adjustment of tax
- 67 Refund for conveyances used interjurisdictionally

Division 7 — Multijurisdictional Vehicles

- 68 Definitions
- 69 Tax if multijurisdictional vehicle licensed
- 70 When tax under section 69 must be paid
- 71 Adjustment of tax under section 69
- 72 Tax if vehicle ceases to be multijurisdictional and licensed by person who held prorating agreement licence
- 72.1 Tax if vehicle ceases to be multijurisdictional and licensed by person who did not hold prorating agreement licence
- 73 Liability of other persons
- 74 Refund or credit of tax if fleet licensing changed
- 74.1 Refund if not entitled to credit under section 72 or 72.1
- 75 Credit if tax previously paid
- 76 Refund or credit for trade-in vehicles
- 77 Refund for replacement vehicles
- 78 Refund for short term rental vehicles

Division 8 — Affixed Machinery and Improvements to Real Property

- 79 Contractor exempt from tax under section 37 or 49
- 80 Tax on tangible personal property used to improve real property if contractor exempt
- 80.1 Contractor exempt from tax under section 37 or 49 if other person would be exempt
- 80.2 Refund of tax paid under Division 5 by contractor
- 80.3 Tax on tangible personal property used to improve real property if contractor obtained refund
- 80.4 Tax if change in use of tangible personal property used to improve real property
- 80.5 Transitional Tax on tangible personal property used by contractor to improve real property
- 80.6 Transitional Tax on tangible personal property used to improve real property
- 80.7 Transitional Tax on tangible personal property incorporated into property subject to tax under the *New Housing Transition Tax and Rebate Act*
- 80.8 Transitional Tax on mobile homes affixed to land situated in British Columbia

Division 9 — Change in Use

- 81 Tax if change in use of property acquired for resale
- 82 Tax if property used for new purpose
- 82.1 Tax on parts if property containing parts used for new purpose
- 82.2 Tax if conditions for exemption not maintained for specified period
- 83 Tax if change in use of property acquired for lease
- 84 Tax if change in use of resulting tangible personal property
- 84.1 Tax if dealer or manufacturer change use of motor vehicle
- 85 Tax if change in use of prototype
- 86 Tax if change in use of property for which refund received under taxation agreement
- 87 Tax if recording exhibited
- 88 Tax if leased tangible personal property becomes part of real property

Division 10 — Tangible Personal Property Acquired by Small Seller

- 89 Tax on acquisition of eligible tangible personal property
- 90 Eligible tangible personal property brought into British Columbia
- 91 Exemption in relation to eligible tangible personal property purchased from small seller

Division 11 — Energy Products

- 92 Tax on purchase of energy product
- 93 Tax if energy product brought into British Columbia for use
- 94 Tax under this Division is additional tax
- 95 Exemptions in relation to energy products
- 96 Refund of excess if maximum tax paid
- 97 Reporting requirements in relation to energy products

Division 12 — Other Taxes in Relation to Tangible Personal Property

- 98 Liquor sold under special occasion licence
- 99 Tax on acquisition of exclusive product by independent sales contractor
- 100 Tax on gift of vehicle, boat or aircraft given in British Columbia
- 101 Tax on reusable containers
- 102 Tax on leased property occasionally supplied with operator
- 103 Tax on subsequent purchase or lease after refund

PART 4 — TAXES IN RELATION TO SOFTWARE

- 104 Application of this Part
- 105 Tax on software
- 106 Tax on use of software on device in British Columbia
- 107 Tax on business use of software on devices in and outside British Columbia
- 108 Adjustment of tax under section 107
- 109 Tax if use of software changes
- 110 Tax if change in use of resulting software or tangible personal property
- 111 Tax if change in use of software for which refund received under taxation agreement

- 112 Tax on purchase of software by small seller
- 113 Exemptions in relation to software
- 114 Exemption in relation to software purchased from small seller

PART 5 — TAXES IN RELATION TO SERVICES

Division 1 — Services Related to Purchase

- 115 Definition
- 116 Tax if contract for property conversion related to purchase
- 117 Tax if contract for modification of purchased property
- 117.1 Tax if resulting property used for new purpose
- 118 Exempt property
- 118.1 Refund if contract for property conversion not related to purchase

Division 2 — Related Services in Relation to Tangible Personal Property

- 119 Tax on purchase of related service provided in British Columbia
- 120 Tax if related service provided outside British Columbia
- 120.1 Tax if change in use of related service
- 121 Exemptions from tax under this Division

Division 3 — Accommodation

- 122 Tax on accommodation
- 123 Tax on accommodation in designated accommodation area
- 123.1 Obligations to pay and collect tax on accommodation purchased for resale
- 123.2 Tax if change in use of accommodation acquired for resale
- 124 Refund in relation to new designated accommodation area
- 125 Payment to designated recipient

Division 4 — Legal Services

- 126 Tax if legal services provided in British Columbia
- 127 Tax if legal services provided to British Columbia resident
- 128 Exemption in relation to legal aid
- 129 Deemed references if person providing legal services is partner or employee

Division 5 — Telecommunication Services

- 130 Tax on telecommunication service
- 131 Tax on dedicated telecommunication service
- 132 Calculation if telecommunication only partly through dedicated system
- 133 Tax if motion picture exhibited
- 134 Exemption if telecommunication service purchased for resale
- 134.1 Exemption for activities outside British Columbia in relation to a telecommunication

Division 6 — Taxable Service Acquired by Small Seller

- 135 Exemptions not applicable to small seller
- 136 Exemption in relation to taxable service acquired from small seller

PART 6 — EXEMPTIONS

- 137 Taxable component sold with non-taxable component for single price
- 138 Exemption for minimal sale of tangible personal property
- 139 Exemptions in relation to food
- 140 Exemption in relation to fuel
- 141 Exemptions in relation to industry and commerce
- 142 Exemptions for purchases or leases of tangible personal property intended for lease
- 143 Exemption in relation to recording of motion picture or audio production
- 144 Limit on exemptions
- 145 Evidence required to claim certain exemptions

PART 7 — REFUNDS

Division 1 — Refunds from Collectors

- 146 Refund if no obligation to pay
- 147 Refund if person fails to provide evidence at time of sale or lease
- 148 Prohibition — refund or credit already received
- 149 Refund if motor vehicle returned to collector
- 150 Refund or credit of purchase price
- 151 Refund or credit of lease price

Division 2 — Refunds from Director

- 152 Refund if no obligation to pay or collect
- 153 Refund if person fails to provide evidence at time of sale or lease
- 153.1 Refund if person fails to provide evidence at time of vehicle registration
- 154 Motor vehicle returned to manufacturer
- 155 Refund in accordance with Nisga'a Nation Taxation Agreement
- 156 Refund in accordance with treaty first nation tax treatment agreement
- 157 Refund by director if collector does not provide refund
- 158 Property shipped out of British Columbia
- 159 Refund or deduction for bad debts
- 160 Refund to collector
- 161 Refund to small seller
- 162 Refunds authorized or required under regulations
- 163 Prohibition — refund or credit already received

Division 3 — General

- 164 Definition
- 165 Claim for refund
- 166 Refund limits
- 167 Appropriation for refunds

PART 8 — REGISTRATION AND TAX COLLECTION

Division 1 — Registration

- 168 Registration
- 169 Vendors and lessors must be registered
- 170 Contractor must be registered
- 171 Direct seller must be registered
- 172 Person located in Canada but outside British Columbia must be registered
- 173 Suspension or cancellation of registration
- 174 When registrant must notify director
- 175 Cancellation of registration if small seller
- 176 Registrant who is independent sales contractor
- 177 Prohibitions relating to use of registration number

Division 2 — Collection and Remittance of Tax

- 178 Collector is agent
- 179 Collection and remittance of tax by collector
- 180 Collection of tax by independent sales contractor
- 181 Collection of tax under section 127
- 182 Collection of tax on liquor sold under special occasion licence
- 183 Duties of small seller
- 184 Tax collected deemed to be held in trust for government
- 185 Allowance for collection of tax
- 186 Collector's returns
- 187 Certificate required for bulk transaction
- 188 Prohibited advertising or other representations
- 189 Liability satisfied if tax collected
- 190 Payment first applied against tax payable
- 191 Agreement with federal government

Division 3 — Taxpayer Returns

- 192 When a person must file a taxpayer return
- 193 Taxpayer return

PART 9 — ADMINISTRATION AND ENFORCEMENT

Division 1 — Inspections and Audits

- 194 Inspection and audit powers
- 195 Requirement to provide records
- 196 Demand for information
- 196.1 Evidence – copies of records

Division 2 — Assessments

- 197 Notice of assessment
- 198 Assessment of tax not remitted by collector
- 199 Assessment if tax not paid or remitted or if excess refund
- 200 Assessment period under sections 198 and 199
- 201 Anti-avoidance rule

Division 3 — Penalties and Interest

- 202 Failure to register
- 203 Failure to levy tax
- 204 Incorrect information
- 205 Failure to remit or pay tax
- 206 Interest

Division 4 — Board Member's Liability

- 207 Board member's liability
- 208 Refunds when joint and several liability
- 209 Deemed board member
- 210 Assessment against board member

PART 10 — APPEALS

- 211 Appeal to minister
- 212 Appeal to court
- 213 Irregularities
- 214 Tax collection not affected by pending appeal
- 215 If decision set aside or amount reduced or increased on appeal

PART 11 — RECOVERY OF AMOUNTS OWING

- 216 Collection bond
- 217 Court proceeding to recover amount owing
- 218 Summary proceedings
- 219 Alternative remedies
- 220 Attachment of funds
- 221 Lien
- 222 Responsibility of person having control of property
- 223 Notice of enforcement proceedings
- 224 Limitation period
- 225 Application for injunction

PART 12 — GENERAL

- 226 Designation of director
- 227 Delegation
- 228 Confidentiality

229 Service of notices

PART 13 — OFFENCES AND PENALTIES

230 Offences and penalties
231 Onus of proof
232 Evidence
233 Offence by corporation
234 Time limit on prosecution
235 Section 5 of *Offence Act*

PART 14 — REGULATIONS

236 General regulation-making authority
237 Regulations in relation to tax payment agreements
238 Regulations in relation to tangible personal property
239 Regulations in relation to software
240 Regulations in relation to accommodation
241 Regulations in relation to exemptions
242 Regulations in relation to refunds
243 Regulations in relation to refunds and credits in relation to exclusive products
244 Regulations in relation to claims of solicitor-client privilege
245 Regulations specifying tax for coin-operated purchases
246 Other regulations

TRANSITIONAL PROVISIONS

Division 1 — Definitions and Interpretation

1 Definitions
2 Application of provisions of *Provincial Sales Tax Act*

Division 2 — Taxes in Relation to Tangible Personal Property

3 Section 37 – purchases of tangible personal property
4 Division 3 of Part 3 – leases of tangible personal property
5 Sections 49 and 52 – tangible personal property purchased in Canada and brought into
British Columbia
6 Section 49 and 52 – tangible personal property brought into British Columbia from outside
Canada
7 Section 50 – registration of vehicle brought into British Columbia
8 Section 55 – property brought into British Columbia from outside Canada
9 Section 60 – conveyance purchased in British Columbia for interjurisdictional use
10 Section 61 and 62 – lease of conveyance
11 Section 63 – conveyance purchased in Canada and brought into and used in British
Columbia
12 Section 63 – conveyance brought into British Columbia from outside Canada
13 Section 64 – change in use of conveyance acquired for resale
14 Section 75 – transition credit if tax previously paid

- 15 Section 80 – affixed machinery and improvements to real property
- 16 Section 81 – change in use of tangible personal property acquired for resale
- 17 Section 84.1 – change in use of motor vehicle acquired for resale
- 18 Section 88 – leased tangible property that becomes part of real property
- 19 Section 89 – acquisition of eligible tangible personal property by small seller
- 20 Section 90 – eligible tangible personal property purchased in Canada and brought into
British Columbia
- 21 Section 90 – eligible tangible personal property brought into British Columbia from
outside Canada
- 22 Section 92 – purchase of energy products
- 23 Section 92 – energy product purchased in Canada and brought into British Columbia for
use
- 24 Section 93 – energy product brought into British Columbia from outside Canada
- 25 Section 99 – purchase of exclusive product by independent sales contractor
- 26 Section 99 – exclusive product purchased in Canada and brought into British Columbia
- 27 Section 99 – exclusive product brought into British Columbia from outside Canada
- 28 Section 101(1) – reusable containers purchased in British Columbia
- 29 Section 101(2) – reusable containers purchased and brought into British Columbia
- 30 Section 101(2) – reusable containers brought into British Columbia from outside Canada

Division 3 — Taxes in Relation to Software

- 31 Section 105 – purchase of software
- 32 Section 106 – use of software on device in British Columbia
- 33 Section 107 – business use of software on devices in and outside British Columbia
- 34 Section 112- purchase of software by small seller

Division 4 — Taxes in Relation to Taxable Services

- 35 Division 1 of Part 5 – services related to purchase
- 36 Section 119 – purchase of related service provided in British Columbia
- 37 Section 120 – related service provided outside British Columbia
- 38 Section 122 and 123 – tax on accommodation
- 39 Section 123.2 – change in use of accommodation acquired for resale
- 40 Section 124 – refund in relation to new designated accommodation area
- 41 Sections 126 and 127 – legal services provided in British Columbia or to British Columbia
resident
- 42 Section 130 – telecommunication service purchased in British Columbia
- 43 Section 131- dedicated telecommunication services

Division 5 — Regulations in relation to the *Provincial Sales Tax Act*

- 44 Section 240 - regulations in relation to accommodation

Division 6 — General

- 45 Retroactive Effect

Division 7 — Transitional Regulations

- 46 Transition – Regulations

PART 1 — INTERPRETATION

Division 1 — Definitions and Interpretation

Definitions

1 In this Act:

“**accommodation**” means

- (a) lodging in a hotel, motel, resort, boarding house, rooming house or bed and breakfast establishment, other than lodging excluded by regulation, and
- (b) lodging in a prescribed dwelling;

“**affixed machinery**” means machinery, equipment or apparatus that is used directly in the manufacture, production, processing, storage, handling, packaging, display, transportation, transmission or distribution of tangible personal property or the provision of software or a service and is affixed to, or installed in, a building, a structure or land so that it ceases to be personal property at common law, but does not include the following:

- (a) machinery, equipment or apparatus that is affixed to, or installed in, a building, structure or land for the purpose of
 - (i) heating, air conditioning or lighting a building or structure,
 - (ii) sewage disposal for a building or structure, or
 - (iii) lifting persons or freight within a building or structure by elevator or escalator;
- (b) machinery, equipment or apparatus that
 - (i) is of such a size that it must be constructed on the site where it is to be used,
 - (ii) by its nature or design, would normally be expected to remain, for its useful life, on the site at which it is constructed,
 - (iii) does not run on rails or tracks, or does not otherwise move around on or from the site at which it is constructed, and
 - (iv) cannot be moved from the site at which it is constructed without
 - (A) dismantling the machinery, equipment or apparatus, or
 - (B) dismantling or causing substantial damage to the building or structure to which it is affixed or in which it is installed;
- (c) other prescribed machinery, equipment or apparatus;

“**apparatus**” means a complex machine or device designed to accomplish a specific purpose and consisting of an integrated assembly of parts each having a definite function;

“**assessment**” includes reassessment;

“**associated corporation**” means a corporation that is associated with another corporation within the meaning of section 256 of the *Income Tax Act* (Canada);

“**BC resident**” means a person who

- (a) resides, ordinarily resides or carries on business in British Columbia, or
- (b) enters British Columbia with the intention of residing or carrying on business in British Columbia;

“**board member**” means

- (a) a member of a board of directors of a corporation, and

(b) except in sections 165 (2) [*claim for refund*] and 233 [*offence by corporation*], a person who is deemed to be a board member of a corporation under section 209;

“boat” means a vessel or other craft that is designed for transporting or drawing on water persons or things, regardless of the method of propulsion or lack of method of propulsion;

“collection agent” means

(a) a customs officer, and

(b) if an agreement is in force between the Canada Post Corporation and the government of Canada or an agent of the government of Canada providing for the collection of tax under Division 5 [*Property Brought into British Columbia from Outside Canada*] of Part 3 by that corporation, a postal agent;

“collector” means the following:

(a) a registrant;

(b) a person who is required under section 169 (1) to (4), 170, 171 or 172 to be registered under section 168 but who is not registered;

(c) a person referred to in section 169 (5) during the first month in which the person is a vendor and while the person is not a registrant;

“collector’s return” means a return filed under section 186;

“conveyance” does not include a vehicle;

“customs officer” means an officer as defined in section 2 of the *Customs Act* (Canada) who is employed at a customs office in British Columbia;

“dedicated telecommunication service” means the right, whether exercised or not, to send from British Columbia or receive in British Columbia telecommunications by using a circuit, a communications channel, a partial communications channel or any other means of sending or receiving a telecommunication that is dedicated to the exclusive use of the purchaser of the service;

“dedicated telecommunication system” means a circuit, a communications channel, a partial communications channel or any other means of sending or receiving a telecommunication that is dedicated to the exclusive use of a person as a result of that person having purchased the right to send from British Columbia or receive in British Columbia a telecommunication by that circuit, communications channel, partial communications channel or other means of sending or receiving a telecommunication;

“designated accommodation area” means an area designated by regulation under section 240 (1) (b);

“designated recipient”, in relation to a designated accommodation area, means the municipality, regional district or eligible entity designated by regulation for the purposes of the tax imposed under sections 123 (1) and 123.2 (3) in the designated accommodation area;

“direct seller” means a person who

(a) does not regularly make retail sales of exclusive products in British Columbia from an established commercial premises, and

(b) sells exclusive products primarily to independent sales contractors;

“director” means a person designated by the minister to administer this Act;

“electronic device” means a device by which a person may

- (a) send, receive, download, view or access a telecommunication, or
- (b) use software;

“eligible charity” means

- (a) a registered charity, or
- (b) a corporation that
 - (i) is incorporated under the *Society Act*, and
 - (ii) is a member of the British Columbia Association of Healthcare Auxiliaries;

“eligible entity” means the following:

- (a) an entity that
 - (i) is a not-for-profit business association,
 - (ii) has a place of business in a designated accommodation area, and
 - (iii) actively engages in tourism marketing, programs or projects in the designated accommodation area;
- (b) an entity that meets the prescribed qualifications;

“eligible tangible personal property” means tangible personal property other than the following:

- (a) a vehicle;
- (b) an aircraft;
- (c) a boat;
- (d) liquor;
- (e) other prescribed tangible personal property;

“energy product” means the following:

- (a) natural gas;
- (b) fuel oil, other than kerosene, used for the purposes of heating, cooling or raising steam;
- (c) propane in a vaporized form delivered
 - (i) by a public utility, as defined in the *Utilities Commission Act*,
 - (ii) by pipe, and
 - (iii) to purchasers at the place at which the propane will be used;
- (d) other prescribed tangible personal property;

“entry date”, in relation to tangible personal property, means the date on which the tangible personal property is first brought or sent into or delivered in British Columbia;

“exclusive product” means tangible personal property that

- (a) is acquired, manufactured or produced by a direct seller, and
- (b) is primarily offered to a purchaser at a retail sale by an independent sales contractor of the direct seller,

but does not include liquor, a vehicle, a boat or an aircraft;

“Excise Tax Act” means the *Excise Tax Act* (Canada);

“fair market value” means the following:

- (a) in relation to tangible personal property other than a boat or a modified motor vehicle, the price at which the legal and beneficial interest in the tangible personal property would, if unencumbered, be conveyed by a willing seller acting in good faith to a willing buyer acting in good faith in an arm's length retail sale in the open market and that must be determined
 - (i) in a manner that includes any charges, costs or expenses referred to in section 10 (2) (e) and (f) [*original purchase price of tangible personal property*], and
 - (ii) for the purposes of sections 49 and 100, in a manner that also includes any costs or expenses referred to in section 10 (2) (f) that were incurred by the person who provided the gift;
 - (a.1) in relation to a boat, the price at which the legal and beneficial interest in the boat and any property, other than prescribed property, that, at or before the time that title to the boat passes, is, or is intended to be, attached to, stored in or used in connection with the operation of the boat, would, if unencumbered, be conveyed by a willing seller acting in good faith to a willing buyer acting in good faith in an arm's length retail sale in the open market and that must be determined
 - (i) in a manner that includes any charges, costs or expenses referred to in section 10 (2) (e) and (f) [*original purchase price of tangible personal property*] that were incurred in relation to the boat and the property, and
 - (ii) for the purposes of sections 49 and 100, in a manner that also includes any costs or expenses referred to in section 10 (2) (f) that were incurred in relation to the boat and the property and were incurred by the person who provided the gift;
 - (a.2) in relation to a modified motor vehicle, the price of the modified motor vehicle as otherwise would be determined under paragraph (a), if that paragraph were applicable, less the portion of that price that can reasonably be attributed to those special features or modifications of the vehicle the sole purpose for which is to
 - (i) facilitate the use of the vehicle by, or the transportation of, an individual using a wheelchair, or
 - (ii) equip the vehicle with an auxiliary driving control that facilitates the operation of the vehicle by an individual with a disability;
 - (b) in relation to software, the price at which the legal and beneficial interest in the software would, if unencumbered, be conveyed or provided by a willing seller acting in good faith to a willing buyer acting in good faith in an arm's length retail sale in the open market;
 - (c) in relation to a taxable service, the price at which the legal and beneficial interest in the taxable service would, if unencumbered, be provided by a willing seller acting in good faith to a willing buyer acting in good faith in an arm's length retail sale in the open market;
- “fleet licensing date”**, in respect of vehicles licensed in a calendar year as part of a fleet, means the first date in that calendar year that the fleet vehicles are licensed as such;
- “fuel oil”** means any liquid fuel containing any derivative of coal, petroleum or natural gas, but does not include the following:
- (a) gasoline;
 - (b) propane;

- (c) butane;
- (d) ethane;
- (e) pentanes plus, as defined in Schedule 1 of the *Carbon Tax Act*;

“improvement to real property” does not include affixed machinery;

“independent sales contractor”, in relation to a direct seller, means an individual who

- (a) has a right to purchase exclusive products from the direct seller or from another independent sales contractor of the direct seller for the purpose of resale,
- (b) is not an agent or employee of the direct seller,
- (c) purchases exclusive products referred to in paragraph (a) for resale or for the individual’s own use or consumption, and
- (d) sells or offers to sell the exclusive products to a purchaser only
 - (i) temporarily at an established business premises,
 - (ii) at premises that are not a business premises, or
 - (iii) at the individual’s private residence;

“lease”, except in section 33 (2) [*when consideration becomes due*], means an agreement under which a person is given a right to use tangible personal property, but does not include

- (a) an agreement under which the person supplying the tangible personal property supplies a person to operate the property, or
- (b) the leasing of furnishings if
 - (i) the furnishings are leased under an agreement to rent a house, apartment or other residential accommodation, and
 - (ii) the rent payments under the agreement are not divided into separate amounts for the accommodation and the furnishings;

“lease price” means the lease price under Division 2 [*Purchase Price and Lease Price*];

“legal services” means

- (a) services that come within the meaning of the practice of law under the *Legal Profession Act*,
- (b) services described in section 18 of the *Notaries Act*, and
- (c) legally related services prescribed as legal services,

but does not include services provided by a person to the person’s employer in the course of employment;

“lessee”, except in section 33 (2) [*when consideration becomes due*], means a person who leases, in or outside British Columbia, tangible personal property that,

- (a) is for use or is used by the person in British Columbia,
- (b) is for use or is used in British Columbia by another person at the first person’s expense,
- (c) is for use or is used in British Columbia by a principal for whom the first person acts as agent, or
- (d) is for use or is used in British Columbia by another person at the expense of a principal for whom the first person acts as agent;

“lessor” means a person, including an assignee, liquidator, administrator, receiver, receiver manager, trustee or similar person,

- (a) who, in the ordinary course of the person’s business, leases or offers to lease tangible personal property to a lessee, and
- (b) who does one or more of the following:
 - (i) carries on business in British Columbia;
 - (ii) enters into leases in British Columbia with a lessee;
 - (iii) leases, to a lessee or any other person referred to in the definition of “lessee”, tangible personal property that is in British Columbia at the time the lease is entered into;
 - (iv) transfers possession of or delivers the tangible personal property to a lessee, or any other person referred to in the definition of “lessee”, in British Columbia;

“licensing date”, in respect of a vehicle that is licensed as part of a fleet, means the fleet licensing date;

“liquor” has the same meaning as in the *Liquor Control and Licensing Act*;

“manufactured building” means a manufactured mobile home, a manufactured modular home or a portable building;

“manufactured mobile home” means

- (a) a mobile home manufactured to Canadian Standards Association Standard Z240, or
- (b) any other mobile home that is similar in design and construction to a mobile home constructed to Canadian Standards Association Standard Z240,

if the home is in all essential features completely constructed before delivery from the factory, but does not include the following:

- (c) a recreational vehicle,
- (d) a travel trailer, including a Park Model travel trailer manufactured to Canadian Standards Association Standard Z240,
- (e) a slide-on camper, a chassis-mounted camper or other similar camper, or
- (f) a prescribed structure, vehicle or component of a vehicle used for a prescribed use;

“manufactured modular home” means

- (a) a modular home manufactured to Canadian Standards Association Standard A277, or
- (b) any other modular home built to a standard required by the National Building Code of Canada and qualifying for Canada Mortgage and Housing Corporation financing,

if each module is in all essential features completely constructed before delivery from the factory;

“meal” does not include a prescribed meal;

“modified business vehicle” means a passenger vehicle, other than a multijurisdictional vehicle,

- (a) that, for business use, is brought or sent into British Columbia, delivered in British Columbia, purchased or leased, and
- (b) that is modified by the addition of equipment or apparatus that
 - (i) enables the vehicle to be used for a specific business purpose, and

(ii) is not related to the operation of the vehicle as a vehicle;

“modified motor vehicle” means a motor vehicle, other than a multijurisdictional vehicle, that

- (a) is manufactured or modified to facilitate the use of the vehicle by, or the transportation of, an individual using a wheelchair, or
- (b) is equipped with an auxiliary driving control to facilitate the operation of the vehicle by an individual with a disability;

“month” means a calendar month;

“motor vehicle” has the same meaning as in the *Motor Vehicle Act*;

“multijurisdictional vehicle” means a vehicle in respect of which tax is payable under section 69 (1);

“non-resident” means a person who does not reside, ordinarily reside or carry on business in British Columbia and who

- (a) owns real property in British Columbia, or
- (b) leases, as lessee, real property in British Columbia if the term of the lease, including the cumulative total of all options and rights to extend or renew that lease, is at least 5 years;

“non-taxable component” means property, software or a service that, if purchased separately from a taxable component, would not be subject to tax under this Act or would be exempt from tax under this Act;

“original lease price”, in relation to tangible personal property, means the lease price of the tangible personal property under section 13;

“original purchase price” means the following:

- (a) in relation to tangible personal property other than a modified business vehicle or a modified motor vehicle that is a passenger vehicle, the purchase price of the tangible personal property under section 10;
- (a.1) in relation to a modified business vehicle, the purchase price of the modified business vehicle under section 10 less the portion of that purchase price that can reasonably be attributed to the modifications referred to in paragraph (b) of the definition of “modified business vehicle”;
- (a.2) in relation to a modified motor vehicle that is a passenger vehicle, the purchase price of the modified motor vehicle under section 10 less the portion of that purchase price that can reasonably be attributed to those special features or modifications of the vehicle the sole purpose for which is to
 - (i) facilitate the use of the vehicle by, or the transportation of, an individual using a wheelchair, or
 - (ii) equip the vehicle with an auxiliary driving control that facilitates the operation of the vehicle by an individual with a disability;
- (b) in relation to software, the purchase price of the software under section 15;
- (c) in relation to a taxable service, the purchase price of the taxable service under section 18 [*related service*], 19 [*accommodation*], 20 [*legal services*] or 21 [*telecommunication service*];

“passenger vehicle” means

- (a) a motor vehicle designed primarily as a means of transport for individuals, other than a motor vehicle excluded by regulation, and
- (b) a prescribed vehicle;

“portable building” means a building that

- (a) is in all essential features completely constructed before delivery,
- (b) is designed to be moved from location to location as a whole building without being self-propelled, and
- (c) is not affixed to land so that the building ceases to be personal property at common law,

including a portable floating building, but does not include the following:

- (d) a manufactured mobile home;
- (e) a manufactured modular home;
- (f) a building that is principally designed for use as a building ancillary to a residence;
- (g) a prescribed building;

“portable floating building” means a building that

- (a) is part of a floating structure that is not designed as a means of transportation or to be self-propelled,
- (b) is sold as a unit with a platform or barge, the primary purpose of which is the flotation of the building, and
- (c) covers most of the surface of the platform or barge;

“postal agent” means the Canada Post Corporation established under the *Canada Post Corporation Act* and its officers, employees and agents;

“promotional distribution” means the provision by a person to another person of promotional material for which

- (a) the purchase price paid by the person providing the promotional material exceeds the amount of the payment specifically made for that promotional material by the person to whom it is provided, or
- (b) a purchase price is not specifically charged to and required to be paid by the person to whom that promotional material is provided;

“promotional distributor” means a person who provides, by way of promotional distribution to another person, promotional material;

“promotional material” means tangible personal property, software or a telecommunication service that is provided for one or more of the following purposes:

- (a) to describe, or to promote or encourage the purchase, use or consumption of, tangible personal property, software, services or real property;
- (b) to provide or distribute to a person a catalogue, directory, listing or compilation of persons, places, prices, services, commodities or places of business in respect of the purchase, use or consumption of tangible personal property, software, services or real property;
- (c) a prescribed purpose,

but does not include a vehicle, boat or aircraft that is provided for one or more of the purposes referred to in paragraphs (a) to (c);

“prototype” means the first full-scale functional form of a new type or a new construction of tangible personal property, but does not include software or prescribed tangible personal property;

“purchase price” means the purchase price under Division 2 [*Purchase Price and Lease Price*];

“purchaser” means the following:

- (a) in relation to tangible personal property, a person who acquires tangible personal property at a sale
 - (i) for the person’s own use or consumption,
 - (ii) for use or consumption by another person at the expense of the person acquiring property,
 - (iii) for use or consumption by a principal for whom the person acquiring the property acts as agent, or
 - (iv) for use or consumption by another person at the expense of a principal for whom the person acquiring the property acts as agent;
- (b) in relation to software, a person who agrees to pay or is otherwise obliged to pay consideration for software
 - (i) provided to the person for the person’s own use or benefit,
 - (ii) provided to another person for that person’s use or benefit at the expense of the person who agrees to pay or is otherwise obligated to pay consideration for the software,
 - (iii) provided to a principal for whom the person acts as agent for the use or benefit of that principal, or
 - (iv) provided to another person for that person’s use or benefit at the expense of a principal for whom the person agreeing to pay or otherwise obliged to pay consideration for the software acts as agent;
- (c) in relation to a related service, legal services or a telecommunication service, a person who agrees to pay or is otherwise obliged to pay consideration for a related service, legal services or a telecommunication service
 - (i) provided to the person for the person’s own use or benefit,
 - (ii) provided to another recipient for that recipient’s use or benefit at the person’s expense,
 - (iii) provided to a principal for whom the person acts as agent for the use or benefit of that principal, or
 - (iv) provided to another recipient for that recipient’s use or benefit at the expense of a principal for whom the person acts as agent;
- (d) in relation to accommodation, a person who agrees to pay or is otherwise obliged to pay consideration for accommodation
 - (i) provided to the person for the person’s own use or benefit,
 - (ii) provided to another recipient for that recipient’s use or benefit at the person’s expense,
 - (iii) provided to a principal for whom the person acts as agent for the use or benefit of that principal,

- (iv) provided to another recipient for that recipient's use or benefit at the expense of a principal for whom the person acts as agent, or
- (v) if the person is a tourism agent and the accommodation is for inclusion in a tourism service provided or to be provided by the tourism agent;

“registered charity” has the same meaning as in section 248 (1) of the *Income Tax Act* (Canada);

“registrant”, except when used in relation to a registrant under Part IX of the *Excise Tax Act*, means a person who is registered under section 168 and whose registration is not suspended or cancelled;

“registration number” means a registration number issued under section 168 (3);

“related individual” has the same meaning as in the *Property Transfer Tax Act*;

“related service”, except in the definition of “legal services”, means any service provided to tangible personal property or any service provided to install tangible personal property, but does not include the following services:

- (a) a service provided to install tangible personal property that will become affixed machinery or an improvement to real property on installation;
- (b) a service provided by a person to the person's employer in the course of employment;
- (c) a service provided to manufacture tangible personal property that is fundamentally different from the tangible personal property from which it was manufactured;
- (d) a service provided to software, or to install software, that is subject to tax or is exempt from tax under Part 3 [*Taxes in Relation to Tangible Personal Property*];

“reporting period”, in relation to a collector or in relation to a person who enters into an agreement with the director under section 32, means the period specified by the director;

“resident taxpayer” means an individual who

- (a) resides, ordinarily resides or carries on business in British Columbia, and
- (b) brings or sends into British Columbia, or receives delivery of in British Columbia, tangible personal property for use or consumption
 - (i) by the individual,
 - (ii) by another individual at the first individual's expense,
 - (iii) by another individual for whom the first individual acts as agent, or
 - (iv) by another individual at the expense of a principal for whom the first individual acts as agent;

“retail sale” means the following:

- (a) in relation to tangible personal property, a sale of tangible personal property to a purchaser for purposes of use or consumption and not for resale;
- (b) in relation to software, a sale of software to a purchaser for purposes of use or benefit and not for resale;
- (c) in relation to a taxable service, a sale of the taxable service to a purchaser for purposes of use or benefit and not for resale;

“reusable container” means

- (a) a container in which a product is packaged or delivered, or
- (b) a pallet on which a product is packaged or delivered,

and that is capable of being returned and reused;

“**sale**” includes the following:

- (a) a conditional sale;
- (b) a sale on credit or for which the price is payable by installments;
- (c) an exchange;
- (d) barter;
- (e) a transfer, conditional or otherwise, of title to or possession of tangible personal property under a contract;
- (f) a delivery of tangible personal property at a price or other consideration;
- (g) a transfer of ownership of, title to or possession of tangible personal property
 - (i) given as security, by foreclosure or by repossession under lien note or conditional sale contract, whether voluntary or otherwise, or by order of a court, or by any other means by which security may be realized, or
 - (ii) in the process of winding up, liquidating or dissolving a corporation;
- (h) a provision, by way of promotional distribution, of promotional material;
- (i) a provision of software at a price or other consideration;
- (j) a provision of a taxable service at a price or other consideration,

but does not include the following:

- (k) the provision of tangible personal property, software or a telecommunication service that, in prescribed circumstances, is merely incidental to a contract for the provision of services that are not subject to tax under this Act;
- (l) the provision of tangible personal property by a contractor for the purposes of fulfilling a contract under which the contractor is required to supply and affix, or install, affixed machinery or improvements to real property;
- (m) except in prescribed circumstances, the provision by a registered charity, or a person acting on behalf of a registered charity, of tangible personal property of nominal value as a gift in return for a donation, all of which is provided to the registered charity;

“**short term rental vehicle**” means a multijurisdictional vehicle that, during a vehicle licence period,

- (a) is leased primarily for periods of 28 days or less, and
- (b) is made available to the public for leasing referred to in paragraph (a);

“**small seller**” means a person

- (a) who is located in British Columbia,
- (b) who sells eligible tangible personal property or software or provides taxable services at a sale in British Columbia,
- (b.1) who does not sell, in the ordinary course of business, vehicles, aircraft, boats or other tangible personal property prescribed for the purposes of paragraph (e) of the definition of “eligible tangible personal property”,
- (b.2) who does not sell liquor, other than under a special occasion licence,
- (c) who does not regularly

- (i) make retail sales of eligible tangible personal property or software in British Columbia from an established commercial premises, or
 - (ii) provide a taxable service in British Columbia from an established commercial premises,
- (d) who does not maintain an established business premises in British Columbia,
- (e) whose gross revenue in the previous 12 months from all retail sales of eligible tangible personal property and software and all provisions of a taxable service is \$10 000 or less,
- (f) whose reasonable estimate of gross revenue in the 12 months after the 12 months referred to in paragraph (e) from all sales of eligible tangible personal property and software and all provisions of a taxable service is \$10 000 or less,
- (g) who is not any of the following:
- (i) a lessor;
 - (ii) an independent sales contractor;
 - (iii) a contractor who acquires tangible personal property for the purposes of fulfilling a contract under which the contractor is required to supply and affix, or install, affixed machinery or improvements to real property;
 - (iv) a vendor within the meaning of paragraph (d) of the definition of “vendor”, and
- (h) who is not registered under section 168 and is not required under section 169, 170, 171 or 172 to be registered under section 168;

“software” means the following:

- (a) a software program that is delivered or accessed by any means;
- (b) the right, whether exercised or not, to use a software program that is delivered or accessed by any means;

“substantially” means more than 90%;

“tangible personal property” means the following:

- (a) personal property that can be seen, weighed, measured, felt or touched, or that is in any other way perceptible to the senses, and includes natural or manufactured gas;
- (b) electricity;
- (c) heat;
- (d) affixed machinery;
- (e) an improvement to real property or part of an improvement to real property that is removed from the site at which it is affixed or installed, while it is removed from that site;

“tax”, in relation to tax under this Act, includes

- (a) an amount a person must pay to the government under section 187 (2) [*certificate required for bulk transaction*], and
- (b) an amount for which a person is personally liable to the government under section 222 [*responsibility of person having control of property*];

“taxable component” means tangible personal property, software or a taxable service that would be subject to tax under this Act if purchased separately from other property or services;

“taxable service” means any of the following:

- (a) services described in section 116 (2) (b) [*tax if contract for property conversion related to purchase*] that are provided under the contract referred to in that provision;
- (b) services described in section 117 (2) (b) [*tax if contract for modification of purchased property*] that are provided under the contract referred to in section 117 (2) (a) (i) or (ii);
- (c) a related service;
- (d) accommodation;
- (e) legal services;
- (f) a telecommunication service;

“taxpayer return” means a taxpayer return under section 193;

“telecommunication” means signs, signals, writing, images, sound or intelligence of any nature;

“telecommunication service” means any of the following:

- (a) the right, whether exercised or not, to utilize a telecommunication system to send or receive telecommunications by means of an electronic device that is ordinarily situated in British Columbia;
- (b) the utilization of a telecommunication system to send or receive a telecommunication by means of an electronic device that is ordinarily situated in British Columbia;
- (c) a dedicated telecommunication service;
- (d) the right, whether exercised or not, to download, view or access, by utilizing a telecommunication system, one or more of the following telecommunications by means of an electronic device that is ordinarily situated in British Columbia:
 - (i) an audio book;
 - (ii) an audio program;
 - (iii) music;
 - (iv) a ring tone;
 - (v) a television program, motion picture or other video;
 - (vi) a prescribed telecommunication;

“telecommunication system” means a wire, cable, radio, optical or other electromagnetic system, or a similar technical system, for the transmission, emission or reception of a telecommunication;

“tourism agent” means a person who

- (a) purchases accommodation from a vendor, and
- (b) for payment, makes all or any part of that accommodation available for use by one or more persons as part of a tourism service;

“trailer” has the same meaning as in the *Motor Vehicle Act*;

“use”,

(a) in relation to tangible personal property, includes the following:

- (i) the exercise of any right or power over tangible personal property incidental to the ownership of it, other than the sale of the property;
- (ii) the leasing by a person of tangible personal property to another person;
- (iii) the storing, keeping or retaining of tangible personal property for any purpose;
- (iv) the provision of tangible personal property by way of promotional distribution;
- (v) the utilization of tangible personal property by the person to whom the tangible personal property is provided by way of promotional distribution;
- (vi) the employment or utilization of tangible personal property by its owner, an employee of that owner or an independent contractor retained by that owner, in the course of carrying out work or performing services for another person;
- (vii) the consumption, employment or utilization of tangible personal property by a person in the course of providing a service;
- (viii) the consumption, employment or utilization of tangible personal property for the purposes of fulfilling a contract for the supply and installation of affixed machinery or improvements to real property;
- (ix) the provision by a registered charity of tangible personal property of nominal value as a gift in return for a donation,

but does not include the following:

- (x) the exercise of a right or power over or the storing, keeping or retaining of tangible personal property that was brought into British Columbia for the sole purpose of subsequently transporting it out of British Columbia for use outside British Columbia;
- (xi) the exercise of a right or power over or the storing, keeping or retaining of tangible personal property, other than reusable containers, that was brought into British Columbia for the sole purpose of being processed, fabricated or manufactured into, or attached to or incorporated into, other tangible personal property that is to be transported outside British Columbia for use solely outside British Columbia;
- (xii) the storing, keeping or retaining of tangible personal property that was brought into British Columbia for the sole purpose of being repaired and, after repair, being transported outside British Columbia for use outside British Columbia;
- (xiii) the storing, keeping or retaining of tangible personal property for the sole purpose of resale,

(b) in relation to software, includes the following:

- (i) the sending, receiving, downloading, viewing or accessing of software by any means, including if possession of the software is maintained by the provider of the software or another person;
- (ii) the exercise of any right or power over software incidental to the ownership of it;
- (iii) the storing, keeping or retaining of software for any purpose;
- (iv) the holding of a right to use software;

- (v) the provision of software by way of promotional distribution;
 - (vi) the utilization of software by the person to whom the software is provided by way of promotional distribution;
 - (vii) the employment or utilization of software by its owner, an employee of that owner or an independent contractor retained by that owner, in the course of carrying out work or performing services for another person;
 - (viii) the employment or utilization of software by a person in the course of providing a service,
- (c) in relation to a taxable service, includes the employment or utilization of a taxable service by a person in the course of providing a service,
- (d) in relation to a related service, includes the provision by a person of a related service to another person,
- (e) in relation to accommodation, includes the following:
- (i) the exercise of any right or power over accommodation incidental to the ownership of it, other than the sale of the accommodation;
 - (ii) the employment or utilization of accommodation by its owner, an employee of that owner or an independent contractor retained by that owner, in the course of carrying out work or performing services for another person, and
- (f) in relation to a telecommunication service, includes the following:
- (i) the sending, receiving, downloading, viewing or accessing of a telecommunication by any means, including if possession of the telecommunication, telecommunication system or telecommunication service is maintained by the provider of the telecommunication service or another person;
 - (ii) in relation to paragraph (d) of the definition of “telecommunication service”, the exercise of any right or power over the right to send, receive, download, view or access a telecommunication incidental to the right;
 - (iii) the provision by a person of a telecommunication service to another person;
 - (iv) the storing, keeping or retaining of a telecommunication or telecommunication service for any purpose;
 - (v) the holding of a right to send, receive, download, view or access a telecommunication;
 - (v.1) the provision of a telecommunication service by way of promotional distribution;
 - (v.2) the utilization of a telecommunication service by the person to whom the telecommunication service is provided by way of promotional distribution;
 - (v.3) the utilization or the holding of a right to utilize a telecommunication system;
 - (vi) the employment or utilization of a telecommunication service by its owner, an employee of that owner or an independent contractor retained by that owner, in the course of carrying out work or performing services for another person;

“user” means the following:

- (a) a person who utilizes in British Columbia tangible personal property
 - (i) for the person’s own use or consumption,

- (ii) for the use or consumption of another person at the expense of the person utilizing the property,
 - (iii) for the use or consumption of a principal for whom the person utilizing the property acts as agent, or
 - (iv) for the use or consumption of another person at the expense of a principal for whom the person utilizing the property acts as agent;
- (b) a person who utilizes in British Columbia software
- (i) for the person's own use or benefit,
 - (ii) for the use or benefit of another person at the expense of the person utilizing the software,
 - (iii) for the use or benefit of a principal for whom the person utilizing the software acts as agent, or
 - (iv) for the use or benefit of another person at the expense of a principal for whom the person utilizing the software acts as agent;
- (c) a promotional distributor who provides promotional material by way of promotional distribution;
- (d) a person who utilizes in British Columbia accommodation
- (i) for the person's own use or benefit,
 - (ii) for the use or benefit of another person at the expense of the person utilizing the accommodation,
 - (iii) for the use or benefit of a principal for whom the person utilizing the accommodation acts as agent, or
 - (iv) for the use or benefit of another person at the expense of a principal for whom the person utilizing the software acts as agent;

“vehicle” has the same meaning as in the *Motor Vehicle Act*;

“vehicle licence period”, in respect of a vehicle, means the period beginning on a date on which a licence is issued for the vehicle and ending on the expiry date for the licence established on that licensing date;

“vehicle registration legislation” means the *Commercial Transport Act*, *Motor Vehicle Act* or *Motor Vehicle (All Terrain) Act*;

“vendor” means the following:

- (a) in relation to tangible personal property, a person, including an assignee, liquidator, administrator, receiver, receiver manager, trustee or similar person, who, in the ordinary course of the person's business, in British Columbia, sells, offers to sell, provides or offers to provide tangible personal property to a purchaser at a retail sale in British Columbia, but does not include
 - (i) a small seller, or
 - (ii) an independent sales contractor, but only in relation to the sale of exclusive products to a purchaser at a retail sale in British Columbia;
- (b) in relation to software, a person, including an assignee, liquidator, administrator, receiver, receiver manager, trustee or similar person, who, in the ordinary course of the person's business, in British Columbia, sells, offers to sell, provides or offers to

provide software to a purchaser at a retail sale in British Columbia, but does not include a small seller;

- (c) in relation to a taxable service other than accommodation, a person, including an assignee, liquidator, administrator, receiver, receiver manager, trustee or similar person, who, in the ordinary course of the person's business, in British Columbia, sells, offers to sell, provides or offers to provide a taxable service to a purchaser at a retail sale in British Columbia, but does not include a small seller;
- (d) in relation to accommodation, a person, including an assignee, liquidator, administrator, receiver, receiver manager, trustee or similar person, who, in the ordinary course of the person's business, in British Columbia, sells, offers to sell, provides or offers to provide accommodation to a purchaser at a retail sale in British Columbia, but does not include a tourism agent.

Proof of residence in British Columbia

- 2 For the purposes of this Act, any of the following is proof, in the absence of evidence to the contrary, that an individual resides in British Columbia:
 - (a) the receipt by the individual of a grant under section 2 of the *Home Owner Grant Act*;
 - (b) the receipt by a person of a grant in respect of the individual's residence and for the individual's benefit under section 3, 4 or 5 of the *Home Owner Grant Act*;
 - (c) the enrollment of the individual as a beneficiary under the medical services plan continued under the *Medicare Protection Act*.

Deemed expenses of a person

- 3 (1) For the purposes of this Act, a person who, for the use or consumption by another person, acquires at a sale, leases as lessee, utilizes, brings or sends into British Columbia, or receives delivery of in British Columbia, tangible personal property
 - (a) is deemed to have done so at the first person's expense, or
 - (b) if the first person acts on behalf of or as an agent for a principal, is deemed to have done so at the expense of the principal,unless the other person acquires the tangible personal property at a sale or is given the right to use the tangible personal property under a lease.
- (2) For the purposes of this Act, a person who, for the use or benefit of another person, agrees to pay or is otherwise obliged to pay consideration for software or a taxable service
 - (a) is deemed to have done so at the first person's expense, or
 - (b) if the first person acts on behalf of or as an agent for a principal, is deemed to have done so at the expense of the principal,unless the other person agrees to pay or is otherwise obliged to pay consideration for the software or taxable service.

Transactions deemed to be transfer of possession

- 4 (1) For the purposes of the definition of "sale", the director may determine that a transaction in relation to tangible personal property was in place of a transfer of title, exchange or barter.

- (2) If the director makes a determination under subsection (1), for the purposes of the definition of “sale”, the transaction is deemed to be a transfer of possession of the tangible personal property under a contract.

Carrying on business in British Columbia

- 5 For the purposes of this Act, a person is deemed to be carrying on business in British Columbia if
- (a) the person’s name, or any name under which the person carries on business, is listed in a telephone directory
 - (i) for any part of British Columbia, and
 - (ii) in which an address or telephone number in British Columbia is given for the person,
 - (b) the person’s name, or any name under which the person carries on business, appears or is announced in any advertisement in which an address or telephone number in British Columbia is given for the person, or
 - (c) the person has, in British Columbia,
 - (i) employees or other representatives, or
 - (ii) a warehouse, office or place of business.

Deemed use of tangible personal property or software in the course of business

- 6 For the purposes of this Act, a person is deemed to use tangible personal property or software in the course of the person’s business if
- (a) the tangible personal property or software is used
 - (i) by another person at the first person’s expense,
 - (ii) by a principal for whom the first person acts as agent, or
 - (iii) by another person at the expense of a principal for whom the first person acts as agent, and
 - (b) the use by the other person referred to in paragraph (a) is intended to assist the business of the first person referred to in that paragraph.

How tax is to be calculated

- 7 (1) The tax imposed under this Act must be
- (a) calculated separately on every sale or lease of tangible personal property or every sale of software or a taxable service, and
 - (b) computed to the nearest cent, with 1/2 cent counted as one cent.
- (2) For the purposes of subsection (1) (a), if 2 or more items of tangible personal property are sold or leased on the same occasion or as part of one transaction and the items are subject to tax imposed under this Act at the same rate, the total of the sales or leases is deemed to be one sale or lease.
- (3) For the purposes of subsection (1) (a), if 2 or more items of software are sold on the same occasion or as part of one transaction and the items are subject to tax imposed under this Act at the same rate, the total of the sales is deemed to be one sale.

- (4) For the purposes of subsection (1) (a), if 2 or more taxable services are sold on the same occasion or as part of one transaction and the taxable services are subject to tax imposed under this Act at the same rate, the total of the sales is deemed to be one sale.

Liability of other persons

- 8 (1) If there is more than one purchaser of tangible personal property, software or a taxable service subject to tax under this Act, each purchaser is jointly and severally liable for the tax.
- (2) If there is more than one lessee of tangible personal property subject to tax under this Act, each lessee is jointly and severally liable for the tax.

Division 2 — Purchase Price and Lease Price

Purchase price of tangible personal property

- 9 For the purposes of this Act, the purchase price of tangible personal property is as follows:
- (a) subject to paragraphs (b) to (g), the purchase price of the tangible personal property under section 10 [*original purchase price of tangible personal property*];
 - (b) subject to paragraphs (c) to (g), if section 22 (1) [*reduced purchase price*] applies in respect of the purchase, the purchase price of the tangible personal property under that section;
 - (c) subject to paragraphs (d) to (g), if section 23 [*purchase price if coupon accepted*] applies in respect of the purchase, the purchase price of the tangible personal property under that section;
 - (d) subject to paragraphs (d.1) to (g), if section 24 [*purchase price if trade-in allowed on purchase of tangible personal property*] applies in respect of the sale, the purchase price of the tangible personal property under that section;
 - (d.1) subject to paragraphs (d.2) to (g), if section 26 [*purchase price if bundled purchase*] applies in respect of the tangible personal property, the purchase price of the tangible personal property under that section;
 - (d.2) subject to paragraphs (e) and (g), if section 16 [*purchase price of promotional material acquired or received by promotional distribution*] applies in respect of the tangible personal property, the purchase price of the tangible personal property under that section;
 - (e) subject to paragraph (g), if section 25 [*depreciated purchase price of tangible personal property*] applies in respect of the tangible personal property, the purchase price of the tangible personal property under that section;
 - (f) if the tangible personal property is a modified motor vehicle, the purchase price of the modified motor vehicle under paragraphs (a) to (e) less the portion of the price that can reasonably be attributed to those special features or modifications of the vehicle the sole purpose for which is to
 - (i) facilitate the use of the vehicle by, or the transportation of, an individual using a wheelchair, or
 - (ii) equip the vehicle with an auxiliary driving control that facilitates the operation of the vehicle by an individual with a disability;

- (g) if section 80 (2) [*tax on tangible personal property used to improve real property if contractor exempt*] or 80.3 (2) [*tax on tangible personal property used to improve real property if contractor obtained refund*] applies in respect of the tangible personal property, the purchase price of the tangible personal property under section 11.

Original purchase price of tangible personal property

- 10**
- (1) For the purposes of this Act, the purchase price of tangible personal property is equal to the total value of the consideration that the seller or person from whom the tangible personal property passes accepts as the price or on account of the price of the tangible personal property covered by the sale.
 - (2) Without limiting subsection (1), for the purposes of this Act, the purchase price of tangible personal property includes the following:
 - (a) a price in money accepted by the seller or person from whom the tangible personal property passes as the price or on account of the price of the tangible personal property covered by the sale;
 - (b) the value of services accepted by the seller or person from whom the tangible personal property passes as the price or on account of the price of the tangible personal property covered by the sale;
 - (c) the value of the tangible personal property or software exchanged or acquired by the seller or person from whom the tangible personal property passes as the price or on account of the price of the tangible personal property covered by the sale;
 - (d) in the case of tangible personal property that is repossessed, the value of the tangible personal property;
 - (e) any charges for
 - (i) transportation or delivery of the tangible personal property sold, or
 - (ii) interest, finance, service, customs and excise charges in relation to the tangible personal property soldthat are incurred at or before the time that title to the tangible personal property covered by the sale passes under that sale, whether or not those charges are shown separately on any record of the sale, but does not include interest charges on a conditional sale contract if the amount of those charges is segregated on the record of sale or is billed separately to the purchaser, and is payable over the term of the contract;
 - (f) if the tangible personal property is purchased, manufactured, processed or otherwise acquired outside British Columbia and subsequently brought or sent into or received in British Columbia for use or consumption in British Columbia, the costs and expenses incurred by the user, or by a person who is not a BC resident and who brought or sent into British Columbia, or received delivery of in British Columbia the tangible personal property, before the use of the tangible personal property in British Columbia, including
 - (i) costs and expenses for materials, labour and other manufacturing and processing costs and expenses, and
 - (ii) costs and expenses for service, customs, excise and transportation;

- (f.1) in relation to the purchase of a boat, the total value of the consideration that is payable by the purchaser for any property that, at or before the time that title to the boat covered by the sale passes under that sale, is, or is intended to be, attached to, stored in or used in connection with the operation of the boat, whether or not shown separately on any record of the sale or billed separately;
- (g) in relation to the purchase of ready-mixed concrete that is to be delivered by or on behalf of the seller to the place where the purchaser intends to use the ready-mixed concrete, the total value of the consideration that is payable by the purchaser to have the ready-mixed concrete delivered to that place;
- (h) any charge, including a royalty or licence fee, relating to
 - (i) the use of the tangible personal property, or
 - (ii) the use of knowledge required to use the tangible personal property,whether incurred before, at or after the time that title to the tangible personal property covered by the sale passes under that sale;
- (i) any charge relating to a warranty made with respect to the tangible personal property, or any charge relating to the maintenance of or service to the tangible personal property, that must be paid at or before the time that title to the tangible personal property covered by the sale passes under that sale, whether or not those charges are shown separately on any record of the sale or billed separately.

Purchase price of tangible personal property related to affixed machinery and improvements to real property

- 11** (1) For the purposes of section 80 (2), the purchase price of tangible personal property is equal to the greater of the following:
- (a) the purchase price payable by the contractor for the tangible personal property;
 - (b) the purchase price of the tangible personal property set out in the agreement referred to in section 79 (1) (c) or (2) (c).
- (2) For the purposes of section 80.3 (2), the purchase price of tangible personal property is equal to the greater of the following:
- (a) the purchase price payable by the contractor for the tangible personal property;
 - (b) the purchase price of the tangible personal property set out in the agreement referred to in section 80.2 (1) (d) or (2) (d).

Lease price of tangible personal property

- 12** For the purposes of this Act, the lease price of tangible personal property is as follows:
- (a) subject to paragraphs (b) to (d), the lease price of the tangible personal property under section 13;
 - (b) subject to paragraphs (c) and (d), if section 22 (2) [*reduced lease price*] applies in respect of the lease, the lease price of the tangible personal property under that section;
 - (c) subject to paragraph (d), if section 23 [*lease price if coupon accepted*] applies in respect of the lease, the lease price of the tangible personal property under that section;

- (d) if the tangible personal property is a modified motor vehicle that is leased, at the time the lease is entered into, for a period of one year or more, the lease price of the modified motor vehicle under paragraphs (a) to (c) less the portion of the price that can reasonably be attributed to those special features or modifications of the vehicle the sole purpose for which is to
 - (i) facilitate the use of the vehicle by, or the transportation of, an individual using a wheelchair, or
 - (ii) equip the vehicle with an auxiliary driving control that facilitates the operation of the vehicle by an individual with a disability.

Original lease price of tangible personal property

- 13**
- (1) For the purposes of this Act, the lease price of tangible personal property is equal to the total value of the consideration accepted by the person leasing the tangible personal property to the lessee for the right to use the tangible personal property.
 - (2) Without limiting subsection (1), for the purposes of this Act, the lease price of tangible personal property includes the following:
 - (a) any payment or consideration or part of a payment or consideration that is, or is expressed to be, a licence fee or royalty fee;
 - (b) any payment or consideration, in addition to those made for rental periods, by a lessee to a person granting a lease for the right to use the tangible personal property, including a down payment;
 - (c) any payment or consideration, including a membership fee, that is in addition to payments or consideration for rental periods, a substantial benefit of which is a reduction in the lease price of the tangible personal property;
 - (d) any payment or consideration, or part of a payment or consideration, that is based or calculated on a measure of the use made by the lessee of the tangible personal property;
 - (e) if the tangible personal property is leased outside British Columbia and subsequently brought or sent into or received in British Columbia for use in British Columbia, the charges to the lessee for customs, excise, transportation, service and other similar costs incurred by the lessee before the lessee uses the tangible personal property in British Columbia;
 - (f) in respect of a transaction that is in part a lease of tangible personal property under which the lessee is given the right or authority to exhibit a motion picture to others, the total value of the consideration that
 - (i) is paid by the lessee to the person with whom the exhibitor entered into the transaction, and
 - (ii) is not otherwise included under this section in the lease price of the tangible personal property;
 - (g) any payment or consideration, or part of a payment or consideration, relating to a warranty made with respect to the tangible personal property, or any payment or consideration, or part of a payment or consideration, relating to the maintenance of or service to the tangible personal property, that must be paid under the lease and that is not otherwise included under this section in the lease price of the tangible personal property.

- (3) If an amount of payment, consideration or charge referred to in subsection (1) or (2) is not attributable to a rental period under a lease, the amount is to be attributed equally across all rental periods under the lease for the purposes of the following sections:
- (a) section 41 [*tax if leased property used in and outside British Columbia during rental period*];
 - (b) section 45 [*refund for leased property used outside British Columbia*];
 - (c) section 61 [*tax if sale and lease-back of conveyance*];
 - (d) section 62 [*tax if conveyance leased in British Columbia*].

Purchase price of software

14 For the purposes of this Act, the purchase price of software is as follows:

- (a) subject to paragraphs (b) to (e), the purchase price of the software under section 15;
- (b) subject to paragraphs (c) to (e), if section 22 (3) [*reduced purchase price*] applies in respect of the purchase, the purchase price of the software under that section;
- (c) subject to paragraphs (d) and (e), if section 23 [*purchase price if coupon accepted*] applies in respect of the purchase, the purchase price of the software under that section;
- (d) subject to paragraph (e), if section 26 [*purchase price if bundled purchase*] applies in respect of the software, the purchase price of the software under that section;
- (e) if section 16 [*purchase price of software acquired or received by promotional distribution*] applies in respect of the software, the purchase price of the software under that section.

Original purchase price of software

- 15** (1) For the purposes of this Act, the purchase price of software is equal to the total value of the consideration accepted by the seller or person from whom the software is acquired as the price or on account of the price of the software.
- (2) Without limiting subsection (1), for the purposes of this Act, the purchase price of software includes the following accepted by the seller or person from whom the software is acquired as the price or on account of the price of the software:
- (a) a price in money;
 - (b) the value of services rendered;
 - (c) the value of the software or tangible personal property exchanged or acquired by the seller or person from whom the software passes as the price or on account of the price of the software covered by the sale;
 - (c.1) in the case of software that is repossessed, the value of the software;
 - (d) any charge, including a royalty or licence fee, relating to
 - (i) the use of the software, or
 - (ii) the use of knowledge required to use the software,whether incurred before or after the time that the software is acquired;
 - (e) any payment or consideration or part of a payment or consideration that is, or is expressed to be, a down payment;

- (f) any payment or consideration, including a membership fee, a substantial benefit of which is a reduction in the purchase price of the software;
- (g) any payment or consideration, or part of a payment or consideration, that is based or calculated on a measure of the use made of the software;
- (h) any charge relating to a warranty made with respect to the software, or any charge relating to the maintenance of or service to the software, that must be paid at or before the time that title to the software covered by the sale passes under that sale, whether or not those charges are shown separately on any record of the sale or billed separately.

Purchase price of promotional material acquired or received by promotional distribution

16 (0.1) In this section, “**initial price**” means the following:

- (a) in relation to tangible personal property, the purchase price of the tangible personal property under section 9 (a) to (d.1);
 - (b) in relation to software, the purchase price of the software under section 14 (a) to (d);
 - (c) in relation to a telecommunication service, the purchase price of the telecommunication service under section 17 (a) to (d).
- (1) For the purposes of this Act, in relation to promotional material that is to be provided by way of promotional distribution by a promotional distributor, the promotional distributor’s purchase price of the promotional material is equal to the amount by which the initial price of the promotional material paid by the promotional distributor exceeds the amount of consideration specifically provided for the promotional material by the person to whom that promotional material is provided.
- (2) For the purposes of this Act, in relation to promotional material that is received by way of promotional distribution, the recipient’s purchase price of the promotional material is equal to the amount of any consideration specifically provided for the promotional material by the person to whom that promotional material is provided.

Purchase price of taxable service

17 For the purposes of this Act, the purchase price of a taxable service is as follows:

- (a) subject to paragraphs (b) to (e), the purchase price of the taxable service under section 18 [*related service*], 19 [*accommodation*], 20 [*legal services*] or 21 [*telecommunication service*];
- (b) subject to paragraphs (c) to (e), if section 22 (4) [*reduced purchase price*] applies in respect of the purchase, the purchase price of the taxable service under that section;
- (c) subject to paragraphs (d) and (e), if section 23 [*purchase price if coupon accepted*] applies in respect of the purchase, the purchase price of the taxable service under that section;
- (d) subject to paragraph (e), if section 26 [*purchase price if bundled purchase*] applies in respect of the taxable service, the purchase price of the taxable service under that section;
- (e) if section 16 [*purchase price of telecommunication service acquired or received by promotional distribution*] applies in respect of the telecommunication service, the purchase price of the telecommunication service under that section.

Original purchase price of related service

- 18** (1) For the purposes of this Act, the purchase price of a related service is equal to the total value of the consideration accepted by the seller of the related service or person from whom the related service is acquired as the price or on account of the price of the related service.
- (2) Without limiting subsection (1), for the purposes of this Act, the purchase price of a related service includes a price in money and the value of services rendered.

Original purchase price of accommodation

- 19** (1) For the purposes of this Act, the purchase price of accommodation is equal to the total value of the consideration accepted by the seller of the accommodation or person from whom the accommodation is acquired as the price or on account of the price of the accommodation.
- (2) Without limiting subsection (1), for the purposes of this Act, the purchase price of accommodation includes a price in money and the value of services rendered.
- (3) Despite subsection (1), if accommodation is purchased as part of a combination of accommodation, meals and other prescribed services purchased for a single price from a prescribed person, for the purposes of this Act, the purchase price of the accommodation is the amount attributed to the purchase of the accommodation in accordance with the regulations.

Original purchase price of legal services

- 20** (1) For the purposes of this Act, the purchase price of legal services is equal to the total value of the consideration provided by the purchaser for the provision of the legal services.
- (2) Without limiting subsection (1), for the purposes of this Act, the purchase price of legal services includes
- (a) the fees and charges, other than those prescribed as excluded,
 - (b) disbursements for legal research or secretarial and other support services, and
 - (c) other prescribed disbursements
- that are billed or otherwise charged to a purchaser for or in relation to the legal services.

Original purchase price of telecommunication service

- 21** (1) For the purposes of this Act, the purchase price of a telecommunication service is equal to the total value of the consideration accepted by the seller or person from whom the telecommunication service is acquired as the price or on account of the price of the telecommunication service.
- (2) Without limiting subsection (1), for the purposes of this Act, the purchase price of a telecommunication service includes the following:
- (a) sign-up charges;
 - (b) access charges;
 - (c) airtime charges;
 - (d) usage charges;
 - (e) service charges;

- (f) any charge, including a royalty or licence fee, relating to
 - (i) the use of the telecommunication service, or
 - (ii) the use of knowledge required to use the telecommunication service, whether incurred before or after the time that the telecommunication service is acquired;
- (g) in respect of a transaction that is in part an acquisition of the right or authority to exhibit a motion picture to others, the total value of the consideration that
 - (i) is paid to the person with whom the exhibitor entered into the transaction, and
 - (ii) is not otherwise included under this section in the purchase price of the telecommunication service.

Reduced purchase price or lease price

- 22** (1) If, at or before the time of sale,
- (a) a seller offers to a purchaser a reduction in the purchase price of the tangible personal property under section 9 (a), and
 - (b) the conditions of the reduction, if any, have been met by the purchaser,
- for the purposes of this Act, the purchase price of the tangible personal property is equal to the purchase price of the tangible personal property under section 9 (a) less the amount of the reduction provided by the seller.
- (2) If, at or before the time a lease is entered into,
- (a) a person offers to a lessee a reduction in the original lease price of tangible personal property, and
 - (b) the conditions of the reduction, if any, have been met by the lessee,
- for the purposes of this Act, the lease price of the tangible personal property is equal to the original lease price of the tangible personal property less the amount of the reduction provided by the person.
- (3) If, at or before the time of sale,
- (a) a seller offers to a purchaser a reduction in the original purchase price of software, and
 - (b) the conditions of the reduction, if any, have been met by the purchaser,
- for the purposes of this Act, the purchase price of the software is equal to the original purchase price of the software less the amount of the reduction provided by the seller.
- (4) If, at or before the time of sale,
- (a) a seller offers to a purchaser a reduction in the original purchase price of a taxable service, and
 - (b) the conditions of the reduction, if any, have been met by the purchaser,
- for the purposes of this Act, the purchase price of the taxable service is equal to the original purchase price of the taxable service less the amount of the reduction provided by the seller.

Purchase price or lease price if coupon accepted

- 23** (1) In this section:

“**coupon**” does not include a gift certificate;

“**initial price**” means the following:

- (a) in relation to a purchase of tangible personal property, the purchase price of the tangible personal property under section 9 (a) or (b);
 - (b) in relation to a lease of tangible personal property, the lease price of the tangible personal property under section 12 (a) or (b);
 - (c) in relation to software, the purchase price of the software under section 14 (a) or (b);
 - (d) in relation to a taxable service, the purchase price of the taxable service under section 17 (a) or (b).
- (2) If a seller or a person leasing tangible personal property to a lessee accepts, as consideration for a purchase or lease of tangible personal property or a purchase of software or a taxable service, a rebate offer or coupon that entitles the purchaser or lessee to a reduction in the price of the purchase or lease of the tangible personal property or the price of the software or taxable service equal to an amount specified in or provided for by the rebate offer or coupon, and the seller or the person leasing tangible personal property can reasonably expect to be paid an amount for the acceptance of the rebate offer or the redemption of the coupon by another person, for the purposes of this Act,
- (a) the purchase price of the tangible personal property, software or taxable service is equal to the initial price of the tangible personal property, software or taxable service as if the rebate offer or coupon were not accepted, and
 - (b) the lease price of the tangible personal property is equal to the initial price for the lease of the tangible personal property as if the rebate offer or coupon were not accepted.
- (3) Despite subsection (2), if a seller accepts, as consideration for a purchase of a motor vehicle, a rebate offer or coupon from the manufacturer of the motor vehicle that entitles the purchaser to a reduction in the price of the motor vehicle equal to an amount specified in or provided for by the rebate offer or coupon, for the purposes of this Act, the purchase price of the motor vehicle is equal to the initial price of the motor vehicle less the amount specified in or provided for by the rebate offer or coupon.
- (4) If a seller or a person leasing tangible personal property to a lessee accepts, as consideration for a purchase or lease of tangible personal property or a purchase of software or a taxable service, a rebate offer or coupon that entitles the purchaser or lessee to a reduction in the price of the purchase or lease of the tangible personal property or the price of the software or taxable service equal to an amount specified in or provided for by the rebate offer or coupon, and the seller or the person leasing tangible personal property to the lessee can reasonably expect not to be paid an amount for the acceptance of the rebate offer or the redemption of the coupon by another person, for the purposes of this Act,
- (a) the purchase price of the tangible personal property, software or taxable service is equal to the initial price of the tangible personal property, software or taxable service less the amount specified in or provided for by the rebate offer or coupon, and
 - (b) the lease price of the tangible personal property is equal to the initial price of the tangible personal property less the amount specified in or provided for by the rebate offer or coupon.

Purchase price if trade-in allowed on purchase of tangible personal property

24 (1) In this section:

“**applicable tax**” means a tax imposed in relation to tangible personal property under any of the following:

- (a) this Act;
- (b) the *Consumption Tax Rebate and Transition Act*;
- (c) the *Social Service Tax Act*;
- (d) section 165 (2), 212.1 or 218.1 or Division IV.1 of Part IX of the *Excise Tax Act* in respect of British Columbia as a participating province under Part IX of that Act;

“**initial price**”, in relation to tangible personal property, means the purchase price of the tangible personal property under section 9 (a) to (c).

- (2) Subsection (3) does not apply if the tangible personal property sold or the tangible personal property accepted on account of the property sold is a multijurisdictional vehicle.
- (3) If, in relation to a sale in British Columbia of tangible personal property, tangible personal property on which the purchaser has previously paid an applicable tax or that was exempt from an applicable tax is accepted at the time of sale by a collector as consideration on account of the price of the tangible personal property sold, for the purposes of this Act, the purchase price of the tangible personal property sold is the amount equal to the initial price of the tangible personal property sold less the amount of the credit allowed for the tangible personal property accepted on account of the price of the tangible personal property sold.
- (4) If a motor vehicle on which a person referred to in section 49 (5) [*tax if tangible personal property brought into British Columbia for use*] has previously paid an applicable tax or that was exempt from an applicable tax is accepted at the time of sale of a motor vehicle to which that section applies by the seller as consideration on account of the price of the motor vehicle sold, for the purposes of section 49 (8), the purchase price of the motor vehicle sold is the amount equal to the initial price of the motor vehicle sold less the amount of the credit allowed for the motor vehicle accepted on account of the price of the motor vehicle sold.

Depreciated purchase price of tangible personal property

25 (1) Subject to subsection (3), this section applies in respect of prescribed tangible personal property that becomes subject to tax under any of the following sections:

- (a) section 49 [*tax if tangible personal property brought into British Columbia for use*];
- (a.1) section 50 [*tax on registration of vehicle brought into British Columbia*];
- (b) section 51 [*tax if tangible personal property brought into British Columbia for temporary use*];
- (b.1) section 51.1 [*tax if tangible personal property no longer for temporary use*];
- (c) section 52 [*tax if tangible personal property brought into British Columbia by non-residents*];
- (d) section 63 [*tax if conveyance brought into and used in British Columbia*];
- (e) [Repealed]
- (f) section 72 [*tax if vehicle ceases to be multijurisdictional*];

- (f.1) section 72.1 *[tax if vehicle ceases to be multijurisdictional and licensed by person who did not hold prorating agreement licence];*
 - (f.2) section 80.4 *[tax if change in use of tangible personal property used to improve real property];*
 - (g) section 82 *[tax if property used for new purpose];*
 - (g.1) section 82.1 *[tax on parts if property containing parts used for new purpose];*
 - (h) section 83 *[tax if change in use of property acquired for lease];*
 - (i) section 84 *[tax if change in use of resulting tangible personal property];*
 - (j) section 85 *[tax if change in use of prototype];*
 - (k) section 86 *[tax if change in use of property for which refund received under taxation agreement].*
- (2) For the purposes of this Act, the purchase price of the prescribed tangible personal property to which this section applies is the greater of the following amounts:
- (a) the depreciated value, determined in accordance with the regulations, of the prescribed tangible personal property,
 - (i) in the case of section 49, 50, 51, 52 or 63 on the entry date of the tangible personal property,
 - (ii) in the case of section 51.1, on the date the tangible personal property is used or allowed to be used in British Columbia for a purpose other than for a temporary use,
 - (iii) in the case of section 72 or 72.1, on the date the vehicle is subsequently licensed for use solely within British Columbia,
 - (iv) in the case of section 80.4, 82 or 82.1, on the date the tangible personal property is subsequently used or allowed to be used as referred to in section 80.4 (1) (c), 82 (1) (b) or 82.1 (1) (b),
 - (v) in the case of section 83, on the date the tangible personal property subsequently ceases to be capitalized as lease inventory as referred to in section 83 (1) (b),
 - (vi) in the case of section 84, on the date the person to whom the section applies first becomes a user of the tangible personal property,
 - (vii) in the case of section 85, on the earliest of the following dates:
 - (A) the date the person to whom the section applies first becomes a user of the prototype or copy of the prototype;
 - (B) the date the consideration for use of the prototype or copy of the prototype is paid;
 - (C) the date the consideration for use of the prototype or copy of the prototype becomes due, and
 - (viii) in the case of section 86, on the date the tangible personal property is subsequently used or allowed to be used as referred to in section 86 (1) (b);
 - (b) 50% of the amount that would be the purchase price of the prescribed tangible personal property but for this section.

- (3) This section does not apply if the tangible personal property becomes subject to tax under section 49, 51, 52, 63, 72, 72.1, 82, 83, 84, 85 or 86 less than 15 days after the later of the date of purchase or the entry date.

Purchase price if bundled purchase

- 26** (1) In this section, “**initial price**” means the following:
- (a) in relation to a taxable component that is tangible personal property, the purchase price of the tangible personal property under section 9 (a) to (d);
 - (b) in relation to a taxable component that is software, the purchase price of the software under section 14 (a) to (c);
 - (c) in relation to a taxable component that is a taxable service, the purchase price of the taxable service under section 17 (a) to (c).
- (2) Subject to section 19 (3), this section applies if a taxable component is sold with a non-taxable component for a single price.
- (3) Subject to subsections (4) and (6), for the purposes of this Act, the purchase price of a taxable component is equal to the fair market value of the taxable component.
- (4) Subject to subsection (6), for the purposes of this Act, the purchase price of a taxable component is equal to the initial price accepted by the seller or the person from whom the taxable component passes or is acquired for all the taxable and non-taxable components sold for the single price if
- (a) the fair market value of the taxable component is greater than 90% of the single price and the single price is less than \$500, or
 - (b) the non-taxable component is not ordinarily available for sale separate from the taxable component.
- (5) Subsection (6) applies in relation to accommodation if
- (a) the accommodation is the only taxable component sold with a meal for a single price, and
 - (b) the meal is the only non-taxable component sold with that accommodation.
- (6) For the purposes of this Act, the purchase price of accommodation to which this subsection applies is equal to the amount attributed to the purchase of the accommodation in accordance with the regulations.

Valuation by director

- 27** (1) For the purposes of subsection (2), the director may determine the fair market value of the following:
- (a) tangible personal property
 - (i) that passes at a sale,
 - (ii) that is brought or sent into British Columbia,
 - (iii) that is delivered in British Columbia, or
 - (iv) to which Division 9 [*Change in Use*] of Part 3 applies;
 - (b) a lease of tangible personal property;
 - (c) software

- (i) that passes at a sale,
 - (ii) that is used in British Columbia, or
 - (iii) to which section 109 [*tax if use of software changes*] applies;
 - (d) a provision of a taxable service.
- (2) If the director makes a determination under subsection (1), for the purposes of this Act, other than section 16 (2), and despite any other provision of this Act,
- (a) the fair market value of the tangible personal property as determined under subsection (1) (a) of this section is deemed to be the purchase price of the tangible personal property,
 - (b) the fair market value of the tangible personal property as determined under subsection (1) (b) of this section is deemed to be the lease price of the tangible personal property,
 - (c) the fair market value of the software as determined under subsection (1) (c) of this section is deemed to be the purchase price of the software, and
 - (d) the fair market value of the taxable service as determined under subsection (1) (d) of this section is deemed to be the purchase price of the taxable service.
- (3) For the purposes of paragraph (m) of the definition of “sale” and paragraph (a) (ix) of the definition of “use”, the director may determine whether tangible personal property or a type of tangible personal property has a nominal value.

PART 2 — WHEN TAX IS PAYABLE

When tax is payable in respect of a purchase or lease

- 28** (1) In this section, “**relevant provision**” means any of the following:
- (a) section 37 [*tax on purchase*];
 - (b) section 39 [*tax on leases*];
 - (c) section 43 [*additional tax on lease of passenger vehicle*];
 - (d) section 49 [*tax if tangible personal property brought into British Columbia for use*];
 - (e) section 52 [*tax if tangible personal property brought into British Columbia by non-residents*];
 - (f) section 80 [*tax on tangible personal property used to improve real property*];
 - (f.1) section 80.3 [*tax on tangible personal property used to improve real property if contractor obtained refund*];
 - (f.2) section 80.6 [*transitional tax on tangible personal property used to improve real property*];
 - (f.3) section 89 [*tax on acquisition of eligible tangible personal property*];
 - (f.4) section 90 [*tax on eligible tangible personal property brought into British Columbia*];
 - (g) section 92 [*tax on purchase of energy product*];
 - (h) section 93 [*tax if energy product brought into British Columbia for use*];
 - (h.1) section 98 (1) or (2) [*liquor sold under special occasion licence*];

- (i) section 99 (1), (2) or (3) *[tax on acquisition of exclusive product by independent sales contractor]*;
 - (j) section 101 *[tax on reusable containers]*;
 - (k) section 105 *[tax on use of software]*;
 - (l) [Repealed]
 - (l.1) section 112 *[tax on purchase of software by small seller]*;
 - (m) section 116 *[tax if contract for property conversion related to purchase]*;
 - (n) section 117 *[tax if contract for modification of purchased property]*;
 - (o) section 119 *[tax on purchase of related service provided in British Columbia]*;
 - (p) section 122 *[tax on accommodation]*;
 - (q) section 123 *[tax on accommodation in designated accommodation area]*;
 - (r) section 126 *[tax if legal services provided in British Columbia]*;
 - (s) section 127 *[tax if legal services provided to British Columbia resident]*;
 - (t) section 130 *[tax on purchase of telecommunication service]*;
 - (u) section 131 *[tax on provision of dedicated telecommunication services]*.
- (2) Subject to sections 29 and 30, this section applies to tax imposed under a relevant provision.
- (3) Tax imposed under a relevant provision is payable on the earlier of
- (a) the day the consideration for the purchase or lease of tangible personal property or for the purchase of the software or taxable service is paid, and
 - (b) the day the consideration for the purchase or lease of tangible personal property or for the purchase of the software or taxable service becomes due.
- (4) Despite subsection (3), if the consideration for a purchase or lease of tangible personal property or for a purchase of software or a taxable service is paid or becomes due on more than one day,
- (a) tax under a relevant provision in respect of the purchase or lease of the tangible personal property or the purchase of the software or taxable service is payable on each day that is the earlier of the day a portion of the consideration is paid and the day that portion becomes due, and
 - (b) the tax that is payable on each day under paragraph (a) is to be calculated on the portion of the purchase price or lease price that is attributable to the portion of the consideration that is paid or becomes due, as applicable, on that day.
- (5) Despite subsections (3) and (4), if all or any portion of the consideration for a purchase of tangible personal property has neither been paid nor become due on or before the last day of the month immediately following the first month in which,
- (a) in relation to a purchase of tangible personal property by way of sale, other than a purchase described in paragraph (b), the ownership or possession of the tangible personal property is transferred to the purchaser, or
 - (b) in relation to a purchase of tangible personal property by way of sale under which the seller delivers the tangible personal property to the purchaser on approval, consignment, sale-or-return basis or other similar terms, the purchaser acquires

- ownership of the tangible personal property or makes the tangible personal property available to any person, other than the seller,
- tax under a relevant provision in respect of the purchase of the tangible personal property, calculated on the value of that consideration or portion, as applicable, is payable on that day.
- (6) Subsection (5) does not apply in respect of a purchase of tangible personal property if the tangible personal property is delivered or made available to the purchaser on a continuous basis by means of a wire, pipeline or other conduit and the seller invoices the purchaser in respect of that purchase on a regular or periodic basis.
- (7) If under subsection (5) tax is payable on a day and the purchase price, or any portion of the purchase price, for the purchase of the tangible personal property is not ascertainable on that day,
- (a) tax calculated on the purchase price or portion, as applicable, that is ascertainable on that day is payable on that day, and
 - (b) tax calculated on the purchase price or portion, as applicable, that is not ascertainable on that day is payable on the day the purchase price or portion becomes ascertainable.
- (8) Despite subsections (3) to (5) and (7), if a purchaser or lessee of tangible personal property or a purchaser of software or a taxable service retains, under
- (a) a law of Canada or another province, or
 - (b) an agreement in writing for the construction, renovation, alteration or repair of any real property or any ship or other marine vessel,
- a portion of the consideration for the purchase or lease of the tangible personal property or the purchase of the software or taxable service pending full and satisfactory performance, or any part thereof, tax under a relevant provision, calculated on the purchase price or lease price that is attributable to that portion of the consideration, is payable on the earlier of the day that portion of that consideration is paid and the day that portion of that consideration becomes payable.
- (9) Subject to subsection (10), for the purposes of this section, a deposit, whether refundable or not, given in respect of a purchase or lease of tangible personal property or a purchase of software or a taxable service is not consideration paid for the purchase or lease of the tangible personal property or the purchase of the software or taxable service unless and until the seller or lessor applies the deposit as consideration for that purchase or lease.
- (10) For the purposes of this section, a deposit, whether refundable or not, given in respect of a purchase of a reusable container is not consideration paid for the purchase of the reusable container.

When tax is payable if tax not collected when consideration is paid or becomes due

- 29** (1) In this section, “**relevant provision**” has the same meaning as in section 28.
- (2) Subject to section 30, if a person must pay tax imposed under a relevant provision and the tax is not levied in accordance with section 179 (1) [*collection and remittance of tax by collector*],
- (a) the person who must pay the tax must file a taxpayer return with the director, and

- (b) subject to subsection (3), the tax is payable on the last day of the month after the month in which the tax would otherwise be payable under section 28.
- (3) If subsection (2) applies to a person who must pay tax imposed under section 49 [*tax if tangible personal property brought into British Columbia for use*], 52 [*tax if tangible personal property brought into British Columbia by non-residents*], 93 [*tax if energy product brought into British Columbia for use*] or 101 (2) [*tax on reusable containers*], the tax payable under section 49, 52, 93 or 101 (2) must be paid on or before the last day of the month after the month that includes the entry date of that tangible personal property.

When tax is payable in respect of vehicles

- 30** (1) Subsection (1.1) applies in relation to tax imposed in respect of a vehicle under
- (a) section 37 [*tax on purchase*], 49 [*tax if tangible personal property brought into British Columbia for use*] or 52 [*tax if tangible personal property brought into British Columbia by non-residents*], if the tax is not levied in accordance with section 179 (1) [*collection and remittance of tax by collector*], or
 - (b) section 100 [*tax on gift of vehicle, boat or aircraft given in British Columbia*], if the tax is not levied in accordance with section 179 (1.1).
- (1.1) Tax imposed in respect of a vehicle to which this subsection applies is payable at or before, or on or before, the earliest of the following:
- (a) the time that an application is made for the registration of the vehicle under the vehicle registration legislation;
 - (b) if the tax is payable by a person who is not a registrant, the last day of the month after the month,
 - (i) in the case of section 37, in which the vehicle is purchased at a sale in British Columbia,
 - (ii) in the case of section 49 or 52, that includes the entry date of the vehicle, and
 - (iii) in the case of section 100, in which the person receives the gift of the vehicle;
 - (c) if the tax is payable by a registrant, the prescribed time.
- (2) Tax imposed under section 40 [*tax on motor vehicle leased outside British Columbia and registered for use in British Columbia*] or 50 [*tax on registration of vehicle brought into British Columbia*] is payable at the time that an application is made for the registration of the vehicle under the vehicle registration legislation.
- (3) If a person must pay tax imposed under section 37, 40, 49, 50, 52 or 100 in respect of a vehicle and, under subsection (1.1) (a) or (2) of this section, the tax is payable at the time that an application is made for the registration of the vehicle under the vehicle registration legislation, the person must
- (a) pay the tax to the Insurance Corporation of British Columbia, and
 - (b) provide to the Insurance Corporation of British Columbia information in a form acceptable to the director.
- (4) If a person must pay tax imposed under section 37, 49, 52 or 100 in respect of a vehicle and the tax is payable in accordance with subsection (1.1) (b) of this section, the person must file a taxpayer return with the director.

- (5) Tax payable under section 37, 49, 52 or 100 by a registrant must be paid in the prescribed manner if the tax is not levied in accordance with section 179.
- (6) If a person who must pay tax imposed under section 37, 49, 50, 52 or 100 in respect of a vehicle alleges
 - (a) that tax has been levied in accordance with section 179 in respect of the vehicle,
 - (b) that the tax has been paid in accordance with subsection (1.1) (b) of this section, or
 - (c) that the person is exempt from paying tax imposed under those sections, the Insurance Corporation of British Columbia must nevertheless levy and collect the tax unless the Insurance Corporation of British Columbia obtains from that person, at or before the time the tax is payable,
 - (d) any information or document required by the regulations, and
 - (e) any information or document required by the director.

When tax is payable in respect of gifts of vehicles, boats or aircraft

- 31**
- (1) Subject to subsection (2) and section 30, if a collector gives a gift of a vehicle, boat or aircraft and the person who receives the gift must pay tax imposed under section 100 in respect of that gift, the tax is payable at the time the person receives the gift.
 - (2) If a person must pay tax imposed under section 100 in respect of a gift of a boat or aircraft and the tax is not levied in accordance with section 179 (1.1) [*collection and remittance of tax by collector*],
 - (a) the tax is payable on the last day of the month after the month in which the person receives the gift of the boat or aircraft, and
 - (b) the person must file a taxpayer return with the director.
 - (3) Despite subsection (2), tax payable under section 100 by a registrant in respect of a gift of a boat or aircraft must be paid at or before the prescribed time and in the prescribed manner.

Tax payment agreements in relation to tangible personal property and software

- 32**
- (1) The director may, in the circumstances established by the regulations, enter into an agreement, with a person liable to pay tax imposed under Part 3 [*Taxes in Relation to Tangible Personal Property*] or Part 4 [*Taxes in Relation to Software*], relating to the manner in which the tax is to be paid to the government.
 - (2) An agreement referred to in subsection (1) is subject to subsection (7) and the conditions established in the regulations.
 - (3) An agreement referred to in subsection (1) must provide for the following:
 - (a) the types of tangible personal property or software to which the agreement applies;
 - (b) subject to the regulations, the circumstances in which the person liable to pay tax must pay the tax directly to the government, instead of paying the tax to a collector in relation to a purchase or lease of tangible personal property or a purchase of software to which the agreement applies.
 - (4) Despite anything in this Act, an agreement referred to in subsection (1) may provide for the following:
 - (a) for the manner in which interest is calculated;

- (b) for payments that are based on formulas or estimates referred to in the agreement;
 - (c) for such other terms and conditions that the director considers necessary or advisable for the efficient administration of this Act.
- (5) If an agreement referred to in subsection (1) is entered into, despite anything in this Act but subject to the agreement, the person liable to pay tax must pay the tax, at the prescribed time and in the prescribed manner, directly to the government in relation to a purchase or lease of tangible personal property or a purchase of software to which the agreement applies.
- (6) If an agreement referred to in subsection (1) is entered into, subject to the regulations, the collector is relieved of the obligation to levy and collect the tax.
- (7) The director may terminate the agreement referred to in subsection (1) if the director is satisfied that the person who entered into the agreement with the director has failed to comply with this Act, the regulations or a term or condition of the agreement.

When consideration becomes due

- 33** (1) For the purposes of this Act, all or a portion of the consideration for a purchase or lease of tangible personal property or for a purchase of software or a taxable service becomes due on the earliest of the following:
- (a) the earlier of
 - (i) the day the seller of the tangible personal property, software or taxable service, or the person from whom the tangible personal property is leased, first issues an invoice in respect of the sale or lease for that consideration or portion of that consideration, and
 - (ii) the date of the invoice;
 - (b) the day the seller of the tangible personal property, software or taxable service, or the person from whom the tangible personal property is leased, would have, but for an undue delay, issued an invoice in respect of the sale or lease for that consideration or portion of that consideration;
 - (c) the day the purchaser or lessee is required under a written agreement to pay that consideration or portion of that consideration to the seller of the tangible personal property, software or taxable service or to the person from whom the tangible personal property is leased.
- (2) Despite subsection (1), if tangible personal property, software or a taxable service is supplied by means of a lease, licence or similar arrangement under a written agreement, for the purposes of this Act, all or a portion of the consideration for the property, software or service becomes due on the day the purchaser or lessee is required under the agreement to pay the consideration or portion of the consideration to the seller or the person from whom the tangible personal property is leased.
- (3) For the purposes of this Act, if consideration that is not money is given or required to be given,
- (a) the consideration that is given is deemed to be paid, and
 - (b) the consideration that is required to be given is deemed to be required to be paid.

PART 3 — TAXES IN RELATION TO TANGIBLE PERSONAL PROPERTY

Division 1 — Rates of Tax

Rates of tax in relation to purchase price

- 34** (1) Subject to this section, the rate of tax payable under sections 37, 49 (6) (a), 52, 80, 80.3 to 80.7, 81 to 84, 85 and 86 on tangible personal property is 7% of the purchase price of the tangible personal property.
- (2) The rate of tax payable under sections 37, 49 (6) (a), 52, 81, 82, 83, 84 and 86 on liquor is 10% of the purchase price of the liquor.
- (3) Subject to subsections (5) and (6), the rate of tax payable under sections 37, 49 (6) (a), 50 (2) (a), 52 and 81 to 86 on a vehicle, boat or aircraft is 12% of the purchase price of the vehicle, boat or aircraft.
- (4) Subsections (5) and (6) apply if the person who must pay tax under the applicable section, or another person referred to in section 49 (1) (b), on the vehicle, boat or aircraft
- (a) acquired the vehicle, boat or aircraft at a sale in Canada that is a taxable supply under Part IX [*Goods and Services Tax*] of the *Excise Tax Act* by a registrant,
 - (b) imported the vehicle, boat or aircraft from outside Canada, or
 - (c) acquired the vehicle, boat or aircraft in prescribed circumstances.
- (5) Subject to subsection (6), the rate of tax payable under sections 37, 49 (6) (a), 50 (2) (a), 52 and 81 to 86 on a vehicle, boat or aircraft is 7% of the purchase price of the vehicle, boat or aircraft.
- (6) The rate of tax payable under sections 37, 49 (6) (a), 50 (2) (a), 52 and 81 to 86 on a passenger vehicle is as follows:
- (a) 7% of the purchase price of the passenger vehicle, if the original purchase price is less than \$55 000;
 - (b) 8% of the purchase price of the passenger vehicle, if the original purchase price is \$55 000 or more but less than \$56 000;
 - (c) 9% of the purchase price of the passenger vehicle, if the original purchase price is \$56 000 or more but less than \$57 000;
 - (d) 10% of the purchase price of the passenger vehicle, if the original purchase price is \$57 000 or more.
- (7) The rate of tax payable under sections 37, 49 (6) (a), 52, 80, 80.3 to 80.7 and 82.2 on a manufactured mobile home is 7% of the amount equal to 50% of the purchase price of the manufactured mobile home.
- (8) The rate of tax payable under sections 37, 49 (6) (a), 52, 80, 80.3 to 80.7 and 82.2 on a manufactured modular home is 7% of the amount equal to 55% of the purchase price of the manufactured modular home.
- (8.1) The rate of tax payable under sections 37, 49 (6) (a), 52 and 82.2 on a portable building is 7% of the amount equal to 45% of the purchase price of the portable building.
- (9) Subsections (7) to (8.1) do not apply to the following:

- (a) free-standing appliances, free-standing furniture and draperies sold with a manufactured building;
- (b) repair parts purchased for a manufactured building;
- (c) related services provided in respect of a manufactured building.

Rates of tax in relation to lease price

35 (1) In this section, “**tax rate value**”,

- (a) in relation to a passenger vehicle other than a modified business vehicle or, subject to subsection (1.1), a modified motor vehicle, means, for so long as the lessor remains the owner of the passenger vehicle, the fair market value of the passenger vehicle on the first date on which the lessor leases the passenger vehicle to any person,
 - (b) in relation to a modified business vehicle, means, for so long as the lessor remains the owner of the modified business vehicle, the fair market value of the modified business vehicle on the first date on which the lessor leases the modified business vehicle to any other person less the portion of that fair market value that can reasonably be attributed to the modifications referred to in paragraph (b) of the definition of “modified business vehicle”, and
 - (c) subject to subsection (1.1), in relation to a modified motor vehicle that is a passenger vehicle, means, for so long as the lessor remains the owner of the modified motor vehicle, the fair market value of the modified motor vehicle on the first date on which the lessor leases the modified motor vehicle to any person less the portion of that fair market value that can reasonably be attributed to those special features or modifications of the vehicle the sole purpose for which is to
 - (i) facilitate the use of the vehicle by, or the transportation of, an individual using a wheelchair, or
 - (ii) equip the vehicle with an auxiliary driving control that facilitates the operation of the vehicle by an individual with a disability.
- (1.1) If a modified motor vehicle that is a passenger vehicle is leased to a person, at the time the lease is entered into, for a period of less than one year, for the purposes of this section the tax rate value in respect of that lease of the vehicle must be determined as if the vehicle was not a modified motor vehicle.
- (2) Subject to this section, the rate of tax payable under sections 39 [*tax on leases*] and 102 [*tax on leased property occasionally supplied with operator*] on tangible personal property is 7% of the lease price of the tangible personal property.
 - (3) The rate of tax payable under sections 39 and 102 on a passenger vehicle is as follows:
 - (a) 7% of the lease price, if the tax rate value of the passenger vehicle is less than \$55 000;
 - (b) 8% of the lease price, if the tax rate value of the passenger vehicle is \$55 000 or more but less than \$56 000;
 - (c) 9% of the lease price, if the tax rate value of the passenger vehicle is \$56 000 or more but less than \$57 000;
 - (d) 10% of the lease price, if the tax rate value of the passenger vehicle is \$57 000 or more.

- (4) The rate of tax payable under section 39 on a manufactured mobile home is 7% of the amount equal to 50% of the lease price of the manufactured mobile home.
- (5) The rate of tax payable under section 39 on a manufactured modular home is 7% of the amount equal to 55% of the lease price of the manufactured modular home.
- (6) The rate of tax payable under section 39 on a portable building is 7% of the amount equal to 45% of the lease price of the portable building.
- (7) Subsections (4) to (6) do not apply to the following:
 - (a) free-standing appliances, free-standing furniture and draperies leased with a manufactured building;
 - (b) repair parts leased for a manufactured building.

Rates of tax in relation to gifts

- 36**
- (1) Subject to this section, the rate of tax payable under section 49 (6) (c) is 7% of the fair market value of the tangible personal property on the entry date of the property.
 - (2) The rate of tax payable under section 49 (6) (c) on liquor is 10% of the fair market value of the liquor on the entry date of the liquor.
 - (3) Subject to subsections (5) and (6), the rate of tax payable under sections 49 (6) (c) and 50 (2) (b) on a vehicle, boat or aircraft is 12% of the fair market value of the vehicle, boat or aircraft on the entry date of the vehicle, boat or aircraft.
 - (4) Subsections (5) and (6) apply if the donor who gave the gift to the person who must pay tax under section 49 (6) (c) or 50 (2) (b)
 - (a) is a registrant under Part IX [*Goods and Services Tax*] of the *Excise Tax Act*, or
 - (b) acquired the vehicle, boat or aircraft in prescribed circumstances.
 - (5) Subject to subsection (6), the rate of tax payable under sections 49 (6) (c) and 50 (2) (b) on a vehicle, boat or aircraft is 7% of the fair market value of the vehicle, boat or aircraft on the entry date of the vehicle, boat or aircraft.
 - (6) The rate of tax payable under sections 49 (6) (c) and 50 (2) (b) on a passenger vehicle is as follows:
 - (a) 7% of the fair market value of the passenger vehicle on the entry date of the passenger vehicle, if the fair market value is less than \$55 000;
 - (b) 8% of the fair market value of the passenger vehicle on the entry date of the passenger vehicle, if the fair market value is \$55 000 or more but less than \$56 000;
 - (c) 9% of the fair market value of the passenger vehicle on the entry date of the passenger vehicle, if the fair market value is \$56 000 or more but less than \$57 000;
 - (d) 10% of the fair market value of the passenger vehicle on the entry date of the passenger vehicle, if the fair market value is \$57 000 or more.
 - (7) The rate of tax payable under section 49 (6) (c) on a manufactured mobile home is 7% of the amount equal to 50% of the fair market value of the manufactured mobile home on the entry date of the manufactured mobile home.
 - (8) The rate of tax payable under section 49 (6) (c) on a manufactured modular home is 7% of the amount equal to 55% of the fair market value of the manufactured modular home on the entry date of the manufactured modular home.

- (8.1) The rate of tax payable under section 49 (6) (c) on a portable building is 7% of the amount equal to 45% of the fair market value of the portable building on the entry date of the portable building.
- (9) Subsections (7) to (8.1) do not apply to the following:
- (a) free-standing appliances, free-standing furniture and draperies given as a gift with a manufactured building;
 - (b) repair parts given as a gift for a manufactured building.

Division 2 — Purchases of Tangible Personal Property

Tax on purchase

- 37** (1) A purchaser who purchases tangible personal property at a sale in British Columbia must pay to the government tax at the applicable rate under section 34.
- (2) Subsection (1) does not apply to the following:
- (a) a purchaser of tangible personal property, if the purchaser must pay tax imposed under Division 5 [*Property Brought into British Columbia from Outside Canada*] in relation to the tangible personal property;
 - (b) a purchaser of a conveyance, if the purchaser must pay tax imposed under section 60 [*tax if conveyance purchased in British Columbia for interjurisdictional use*] in relation to the conveyance;
 - (c) a purchaser of a vehicle, if the vehicle is to be immediately licensed in British Columbia as described in section 69 (1) (a) [*tax if multijurisdictional vehicle licensed*];
 - (c.1) a purchaser of an exclusive product, if the purchaser must pay tax imposed under section 99 (1) or (2) [*tax on acquisition of exclusive product by independent sales contractor*] in relation to the exclusive product;
 - (d) a purchaser of a reusable container, if the purchaser must pay tax imposed under section 101 (1) [*tax on reusable containers*].
- (3) If a collector sells tangible personal property at a sale in British Columbia to a person who alleges that the tangible personal property is being purchased for resale, the person must nevertheless pay tax under subsection (1) as if the person were a purchaser and the collector must nevertheless levy and collect the tax under subsection (1) unless the collector obtains, at or before the time the tax is payable,
- (a) that person's registration number, or
 - (b) a declaration in a form acceptable to the director from that person.
- (4) If a collector sells a vehicle at a sale in British Columbia to a person who alleges that the vehicle is to be immediately licensed in British Columbia as described in section 69 (1) (a), the collector must nevertheless levy and collect the tax under subsection (1) of this section unless the collector obtains from that person, at or before the time the tax is payable,
- (a) the account number assigned by the Insurance Corporation of British Columbia to the person who licenses the vehicle in British Columbia under a licence to which a prorating agreement applies, or
 - (b) a declaration in a form acceptable to the director.

- (5) If a collector sells tangible personal property at a sale in British Columbia to a person who alleges that the person is exempt under section 79 (1) from paying tax under subsection (1) of this section, the collector must nevertheless levy and collect the tax under subsection (1) unless the collector obtains, at or before the time the tax is payable,
 - (a) that person's registration number, or
 - (b) a declaration in a form acceptable to the director from that person.
- (6) If a collector sells tangible personal property at a sale in British Columbia to a person who alleges that the person is exempt under section 80.1 (1) from paying tax under subsection (1) of this section, the collector must nevertheless levy and collect the tax under subsection (1) unless the collector obtains from that person, at or before the time the tax is payable, a declaration in a form acceptable to the director and made by the party referred to in section 80.1 (1) (c).

Division 3 — Leases of Tangible Personal Property

Application of this Division

- 38** This Division does not apply in relation to the following:
- (a) a conveyance that is subject to tax or is exempt from tax under Division 6 [*Conveyances Used Interjurisdictionally*];
 - (b) subject to section 39 (2), a multijurisdictional vehicle.

Tax on leases

- 39** (1) A lessee of tangible personal property must pay to the government tax at the applicable rate under section 35 [*rates of tax in relation to lease price*] if one or more of the following apply:
- (a) the lessee enters into the lease in British Columbia;
 - (b) the tangible personal property is located in British Columbia at the time the lessee enters into the lease;
 - (c) the lessee or any other person referred to in the definition of "lessee" takes or intends to take possession of the tangible personal property in British Columbia;
 - (d) the lessee or any other person referred to in the definition of "lessee" receives delivery in British Columbia of the leased tangible personal property;
 - (e) the tangible personal property is a vehicle that is registered for use in British Columbia under the vehicle registration legislation;
 - (f) the lessee leases the tangible personal property in prescribed circumstances.
- (2) Subsection (1) applies in relation to a short term rental vehicle leased to the lessee.
- (3) Subsection (1) does not apply to a lessee of tangible personal property if the lessee must pay tax imposed under section 40 in relation to the lease.

Tax on motor vehicle leased outside British Columbia and registered for use in British Columbia

- 40** (1) In this section, "**taxable value**", in relation to a motor vehicle, means the fair market value of the motor vehicle on the date the motor vehicle is registered for use in British Columbia under the vehicle registration legislation.

- (2) If a lessee of a motor vehicle leases the motor vehicle for a period of more than 28 days from a person who is located outside British Columbia and registers the motor vehicle for use in British Columbia under the vehicle registration legislation, the lessee must pay to the government tax as follows:
- (a) if the motor vehicle is not a passenger vehicle, at the rate of 7% of the taxable value of the motor vehicle;
 - (b) if the motor vehicle is a passenger vehicle, at the applicable rate as follows:
 - (i) 7% of the taxable value, if the taxable value of the passenger vehicle is less than \$55 000;
 - (ii) 8% of the taxable value, if the taxable value of the passenger vehicle is \$55 000 or more but less than \$56 000;
 - (iii) 9% of the taxable value, if the taxable value of the passenger vehicle is \$56 000 or more but less than \$57 000;
 - (iv) 10% of the taxable value, if the taxable value of the passenger vehicle is \$57 000 or more.

Tax if leased property used in and outside British Columbia during rental period

- 41** (1) Subject to subsection (2), this section applies to a lessee of tangible personal property in relation to a rental period under the lease if
- (a) the lessee brings or sends into British Columbia the tangible personal property,
 - (b) the lessee
 - (i) is a BC resident, or
 - (ii) uses the tangible personal property in British Columbia in the course of the lessee's business, whether or not the lessee's business is carried on in British Columbia, and
 - (c) the tangible personal property is for use or is used in British Columbia during the rental period.
- (2) This section does not apply to a lessee if the lessee must pay tax imposed under section 39 or 40 in relation to the lease.
- (3) A lessee to whom this section applies must pay to the government, in relation to the rental period under the lease, tax on the tangible personal property in the amount determined by the following formula:

$$\text{amount} = \text{lease price} \times \text{rate} \times \frac{\text{BC usage}}{\text{total usage}}$$

Where

lease price = the lease price of the tangible personal property attributable to the rental period;

Rate = the percentage in section 35 [*rates of tax in relation to lease price*] that is applicable to the tangible personal property;

BC usage = the number of hours the tangible personal property is in British Columbia in the rental period;

total usage = the total number of hours in that rental period.

- (4) Tax payable under subsection (3) must be paid on or before the last day of the month after the month in which the rental period ends.
- (5) Despite subsection (4), tax payable under subsection (3) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Tax if balance of lease price becomes due on breach of lease

- 42** (1) If a lessee breaches a lease that provides for
- (a) the lease of tangible personal property that is subject to tax under section 39, and
 - (b) the payment, on breach of the lease, of some or all of the outstanding balance of the lease price,

the lessee must pay to the government tax at the rate of 7% of the amount of the payment referred to in paragraph (b) of this subsection.

- (2) Tax payable under subsection (1) must be paid,
 - (a) subject to paragraph (b) of this subsection, at the time the payment referred to in subsection (1) (b) becomes due under the terms of the lease, or
 - (b) if the tax is not levied in accordance with subsection (4), on or before the last day of the month after the month in which the payment referred to in subsection (1) (b) becomes due under the terms of the lease.
- (2.1) Despite subsection (2), if the tax under subsection (1) is payable by a registrant and is not levied in accordance with subsection (4), the tax must be paid at or before the prescribed time and in the prescribed manner.
- (3) If a person must pay tax under subsection (1) and the tax is payable in accordance with subsection (2) (b), the person must file a taxpayer return with the director.
- (4) If the lessor is a collector and the tax under subsection (1) is payable in accordance with subsection (2) (a), the lessor must levy and collect the tax at the time the tax is payable in accordance with that subsection.

Additional tax on lease of passenger vehicle

- 43** (1) In addition to any tax payable under section 39, a lessee who leases a passenger vehicle must pay to the government, for the raising of revenue for the BC Transportation Financing Authority continued under the *Transportation Act*, tax at the rate of \$1.50 for each day or portion of a day that the lessee leases the vehicle.
- (2) Subsection (1) does not apply if the passenger vehicle that is the subject matter of the lease is leased to the lessee for a period of
 - (a) 8 consecutive hours or less, or
 - (b) more than 28 consecutive days.

Exemptions in relation to leases

- 44** (1) Tangible personal property is exempt from tax imposed under this Division if
- (a) the tangible personal property, other than tax imposed under section 51 [*tax if tangible personal property brought into British Columbia for temporary use*] or

Division 6 [*Conveyances Used Interjurisdictionally*] was sold to the lessor by the lessee under a sale and immediate lease-back arrangement, and

- (b) the lessee had, before the sale to the lessor,
 - (i) paid tax imposed under this Part in respect of the tangible personal property, other than tax imposed under section 51 [*tax if tangible personal property brought into British Columbia for temporary use*] or Division 6 [*Conveyances Used Interjurisdictionally*], and for which the lessee has not obtained or is not entitled to obtain a refund under this Act,
 - (ii) paid tax imposed under the *Consumption Tax Rebate and Transition Act* or the *Social Service Tax Act* in respect of the tangible personal property and for which the lessee has not obtained or is not entitled to obtain a refund under those Acts, or
 - (iii) in respect of the tangible personal property, paid tax imposed under section 165 (2), 212.1 or 218.1 or Division IV.1 of Part IX of the *Excise Tax Act*, in respect of British Columbia as a participating province under that Act, and for which the lessee has not obtained or is not entitled to obtain a refund, credit or rebate under Part IX of that Act.
- (2) If a collector, as lessor, leases tangible personal property to a person who alleges that the person is exempt under subsection (1) from paying tax under this Division, the collector must nevertheless levy and collect the tax under this Division unless the collector obtains from that person, at or before the time the tax is payable,
 - (a) any information or document required by the regulations, and
 - (b) any information or document required by the director.

Refund for leased property used outside British Columbia

- 45** (1) If the director is satisfied that
- (a) a lessee of tangible personal property paid tax under section 39, and
 - (b) the tangible personal property was used outside British Columbia during a rental period,
- the director must pay a refund to the lessee in accordance with subsection (2).
- (2) The amount of a refund under subsection (1) in respect of a rental period under the lease is equal to the amount of tax paid under section 39 that is in respect of the lease price attributable to the rental period less the amount of tax that would have otherwise been payable under section 41 in respect of the rental period if that section had applied to the lessee in respect of the rental period.
 - (3) This section does not apply in respect of a lease of a motor vehicle registered for use in British Columbia under the vehicle registration legislation.

Refund on motor vehicle leased outside British Columbia

- 46** On termination or expiration of the lease for a motor vehicle referred to in section 40 (2), or on removal of the motor vehicle from British Columbia for registration outside British Columbia, the director may provide a refund to the lessee in the amount of the difference between the tax paid under section 40 at the time of registering the vehicle less the sum of all taxes that would have otherwise been payable under section 39, 41 or 42.

Division 4 — Tangible Personal Property Brought into British Columbia

Definition

- 47** In this Division, “**calculation year**”, in relation to tangible personal property, means the following:
- (a) the period beginning on the date the property is first brought or sent into, or is delivered in, British Columbia during any year and ending on the day before the first anniversary of that date;
 - (b) if the property is in British Columbia for a continuous period that is longer than the period referred to in paragraph (a), the period beginning on the day after the immediately preceding calculation year and ending on the day before the first anniversary of that date.

Application of this Division

- 48** This Division does not apply in relation to the following:
- (a) tangible personal property that is subject to tax or is exempt from tax under section 37, 99 (3) or (4) or 101 (2);
 - (b) tangible personal property, if tax is paid under Division 5 [*Property Brought into British Columbia from Outside Canada*] in respect of the tangible personal property;
 - (c) a conveyance that is subject to tax or is exempt from tax under Division 6 [*Conveyances Used Interjurisdictionally*];
 - (d) a multijurisdictional vehicle;
 - (e) [Repealed.]

Tax if tangible personal property brought into British Columbia for use

- 49** (1) Subject to subsections (2) and (3), this section applies to a person in relation to tangible personal property, other than tangible personal property that is received as a gift by that person, if
- (a) the person is a BC resident who brings or sends into British Columbia, or receives delivery of in British Columbia, tangible personal property that is for use or consumption
 - (i) by the BC resident,
 - (ii) by another person at the BC resident’s expense,
 - (iii) by a principal for whom the BC resident acts as agent, or
 - (iv) by another person at the expense of a principal for whom the BC resident acts as agent,
 - (a.1) the person is a BC resident who brings or sends into British Columbia tangible personal property that the person received as a gift and that is for use or consumption
 - (i) by the BC resident,
 - (ii) by another person at the BC resident’s expense,
 - (iii) by a principal for whom the BC resident acts as agent, or
 - (iv) by another person at the expense of a principal for whom the BC resident acts as agent,

- (b) the person is a BC resident and a person who is not a BC resident brings or sends into British Columbia, or receives delivery of in British Columbia, tangible personal property that is for use or consumption
 - (i) by the BC resident, or
 - (ii) by the person who is not a BC resident, or by another person, at the BC resident's expense, or
- (c) the person
 - (i) brings or sends into British Columbia, or receives delivery of in British Columbia, the tangible personal property, and
 - (ii) uses the tangible personal property in British Columbia in the course of the person's business, whether or not the business is carried on in British Columbia.
- (2) This section does not apply to a person if
 - (a) any person referred to in subsection (1) has leased the tangible personal property, as lessee,
 - (b) the director is satisfied under section 51 (1) that the tangible personal property is brought or sent into British Columbia, or is delivered in British Columbia, for temporary use, or
 - (c) the person must pay tax imposed under section 51.1 in relation to the tangible personal property.
- (3) This section does not apply in relation to tangible personal property that is subject to tax under section 52.
- (4) A person is not required to pay tax under this section in respect of a vehicle if a person pays tax under section 50 in respect of the bringing or sending into British Columbia, or the delivery in British Columbia, of the vehicle.
- (5) A person to whom this section applies must pay to the government tax at the applicable rate under subsection (6).
- (6) The rate of tax payable under subsection (5) is,
 - (a) subject to paragraphs (b) and (c), the applicable rate under section 34 [*rates of tax in relation to purchase price*],
 - (b) subject to paragraph (c), the applicable rate under subsection (8) of this section if subsection (8) applies to the tangible personal property, and
 - (c) if the tangible personal property that is subject to tax under subsection (5) is brought or sent into British Columbia by a person who received the tangible personal property as a gift, the applicable rate under section 36 [*rates of tax in relation to gifts*].
- (7) Subsection (8) applies to a motor vehicle
 - (a) acquired outside British Columbia but in Canada, and
 - (b) brought or sent into British Columbia or the delivery of which is received in British Columbia.
- (8) The rate of tax payable under subsection (5) on a motor vehicle to which this subsection applies is as follows:

- (a) if the motor vehicle is not a passenger vehicle, at the rate of 7% of the purchase price of the motor vehicle;
 - (b) if the motor vehicle is a passenger vehicle, at the applicable rate as follows:
 - (i) 7% of the purchase price of the passenger vehicle, if the original purchase price of the passenger vehicle is less than \$55 000;
 - (ii) 8% of the purchase price of the passenger vehicle, if the original purchase price of the passenger vehicle is \$55 000 or more but less than \$56 000;
 - (iii) 9% of the purchase price of the passenger vehicle, if the original purchase price of the passenger vehicle is \$56 000 or more but less than \$57 000;
 - (iv) 10% of the purchase price of the passenger vehicle, if the original purchase price of the passenger vehicle is \$57 000 or more.
- (9) The amount of tax payable under subsection (5) by a person in relation to tangible personal property is reduced by
- (a) the amount of tax under this Act, the *Consumption Tax Rebate and Transition Act* or the *Social Service Tax Act* that the person previously paid in relation to the tangible personal property and for which the person has not obtained or is not entitled to obtain a refund under those Acts, and
 - (b) the amount of 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 British Columbia as a participating province under Part IX of that Act, that the person previously paid in relation to the tangible personal property and for which the person has not obtained or is not entitled to obtain a refund, credit or rebate under Part IX of that Act.
- (10) If a collector causes tangible personal property to be delivered in British Columbia to a person who alleges that the person is exempt under section 79 (2) from paying tax under subsection (5) of this section, the collector must nevertheless levy and collect the tax under subsection (5) unless the collector obtains, at or before the time the tax is payable,
- (a) that person's registration number, or
 - (b) a declaration in a form acceptable to the director from that person.
- (11) If a collector causes tangible personal property to be delivered in British Columbia to a person who alleges that the tangible personal property is being purchased for resale, the person must nevertheless pay tax under subsection (5) as if the person were a person to whom this section applies and the collector must nevertheless levy and collect the tax under subsection (5) unless the collector obtains, at or before the time the tax is payable,
- (a) that person's registration number, or
 - (b) a declaration in a form acceptable to the director from that person.
- (12) If a collector causes tangible personal property to be delivered in British Columbia to a person who alleges that the person is exempt under section 80.1 (2) from paying tax under subsection (5) of this section, the collector must nevertheless levy and collect the tax under subsection (5) unless the collector obtains from that person, at or before the time the tax is payable, a declaration in a form acceptable to the director and made by the party referred to in section 80.1 (2) (c).

Tax on registration of vehicle brought into British Columbia

- 50** (0.1) In this section, “**travel trailer**” means a vehicle designed to be
- (a) pulled on a highway, and
 - (b) used as temporary or seasonal accommodation.
- (1) This section applies if
- (a) a person brings or sends into British Columbia, or receives delivery of in British Columbia, a vehicle for use
 - (i) by the person,
 - (ii) by another person at the first person’s expense,
 - (iii) by a principal for whom the first person acts as agent, or
 - (iv) by another person at the expense of a principal for whom the first person acts as agent, and
 - (b) any of the persons referred to in paragraph (a) register the vehicle under the vehicle registration legislation.
- (2) Subject to subsection (3), if this section applies, the person who registers the vehicle must pay to the government tax on the vehicle,
- (a) subject to paragraph (b), at the applicable rate under section 34, and
 - (b) if the tangible personal property that is subject to tax under this section is brought or sent into British Columbia by, or is delivered in British Columbia to, a person who received the tangible personal property as a gift, at the applicable rate under section 36 [*rates of tax in relation to gifts*].
- (3) A person is not required to pay tax under this section in respect of a vehicle if the person has paid tax under section 49, 51.1 or 52 in respect of the vehicle.
- (4) A non-resident is exempt from tax imposed under subsection (2) if
- (a) the non-resident is an individual,
 - (b) the tangible personal property is a travel trailer, and
 - (c) the travel trailer is to be used in British Columbia solely for a non-business purpose.

Tax if tangible personal property brought into British Columbia for temporary use

- 51** (1) Subject to subsection (2), this section applies to a person in relation to tangible personal property if
- (a) section 49 would apply to the person in relation to the tangible personal property if that section were read without reference to subsection (2) (b) of that section, and
 - (b) the person establishes to the satisfaction of the director that the property is brought or sent into British Columbia, or is delivered in British Columbia, for temporary use.
- (2) This section does not apply in respect of the following:
- (a) tangible personal property that is brought or sent into, or delivered in, British Columbia for use as a part of any other tangible personal property;
 - (b) tangible personal property that is brought or sent into British Columbia by, or is delivered in British Columbia to, a person who received the tangible personal property as a gift;

- (c) a vehicle that is registered for use in British Columbia.
- (3) Subject to subsection (6), a person to whom this section applies must pay to the government tax calculated in accordance with subsection (4) or (9).
- (4) Subject to subsection (9), the tax payable under subsection (3) is equal to 1/3 of the tax that would, but for this section, be payable under section 49 by the person in relation to the tangible personal property.
- (5) Except in relation to tangible personal property to which subsection (9) applies, tax must be calculated under subsection (4) separately for each calculation year during any part of which the tangible personal property is in British Columbia.
- (6) A person is not liable to pay to the government, in relation to the tangible personal property, a total amount of tax under subsection (3) that is in excess of an amount equal to the amount determined in accordance with the following formula:
- $$\text{amount} = (\text{purchase price} \times \text{rate}) - \text{other sales tax}$$
- Where
- purchase price = the purchase price of the tangible personal property;
- Rate = the percentage in section 34 that is applicable to the tangible personal property;
- other sales tax = the retail sales tax the person has paid on the property to another province or any tax paid on the property under the *Social Service Tax Act* or the *Consumption Tax Rebate and Transition Act*.
- (7) Except in relation to tangible personal property to which subsection (9) applies, tax payable under subsection (3) must be paid on or before the last day of the month after the month in which the property is first used in British Columbia during the calculation year in respect of which tax is payable.
- (8) Subsection (9) applies to tangible personal property referred to in subsection (1) that is
- (a) for use in petroleum or natural gas exploration or development, and
- (b) one of the following:
- (i) a cement truck;
- (ii) a fracturing truck;
- (iii) a vehicle on which seismic recording equipment or well logging equipment is permanently mounted.
- (9) Tax payable under subsection (3) in relation to tangible personal property to which this subsection applies must be
- (a) calculated in accordance with the regulations,
- (b) calculated under paragraph (a) separately for each prescribed period during any part of which the tangible personal property is in British Columbia, and
- (c) paid at the prescribed time.
- (10) Despite subsections (7) and (9) (c), tax payable under subsection (3) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

**Tax if tangible personal property
no longer for temporary use**

- 51.1** (1) This section applies to a person in relation to tangible personal property if
- (a) section 51 applied to the person in relation to the tangible personal property, and
 - (b) within 3 years after the date on which the tangible personal property is first used in British Columbia and during a calculation year in respect of which tax was payable under section 51, the person uses that property, or allows that property to be used, in British Columbia for a purpose other than for a temporary use.
- (2) A person to whom this section applies must pay to the government tax in an amount equal to the amount of tax under section 49 that would have otherwise been payable if that section had applied to the person in relation to the tangible personal property less the amount of tax paid by the person under section 51 in respect of the tangible personal property.
- (3) Tax payable under subsection (2) must be paid on or before the last day of the month after the month in which the person uses that property, or allows that property to be used, for a purpose other than for temporary use.
- (4) Despite subsection (3), tax payable under subsection (2) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Tax if tangible personal property brought into British Columbia by non-residents

- 52** (1) In this section, “**travel trailer**” means a vehicle designed to be
- (a) pulled on a highway, and
 - (b) used as temporary or seasonal accommodation.
- (2) Subject to subsection (3), this section applies to a non-resident who brings or sends into British Columbia, or who receives delivery of in British Columbia, tangible personal property, if the tangible personal property is, for the year following its entry into British Columbia, to be used or consumed
- (a) primarily in British Columbia, and
 - (b) primarily by one or more of the following:
 - (i) the non-resident;
 - (ii) a person for whom the non-resident acts as agent;
 - (iii) a person whose use or consumption of the tangible personal property is at the expense of the non-resident;
 - (iv) a person whose use or consumption of the tangible personal property is at the expense of a principal for whom the non-resident acts as agent.
- (3) This section does not apply to a non-resident referred to in subsection (1) if
- (a) the non-resident has leased, as lessee, the tangible personal property, or
 - (b) the non-resident must pay tax under section 50 in respect of the vehicle.
- (4) A non-resident to whom this section applies must pay to the government tax at the applicable rate under section 34.
- (5) A non-resident is exempt from tax imposed under subsection (4) if
- (a) the non-resident is an individual,

- (b) the tangible personal property is a boat or travel trailer, and
- (c) the boat or travel trailer is to be used in British Columbia solely for a non-business purpose.

Exemption if less than minimum threshold use in British Columbia

- 53** Tangible personal property is exempt from tax imposed under section 49 or 51 if the tangible personal property is in British Columbia during a calculation year for fewer than a prescribed number of days.

Division 5 — Property Brought into British Columbia from Outside Canada

Application of this Division

- 54** (1) This Division applies if an agreement entered into under section 191 is in force between the government and the government of Canada or an agent of the government of Canada.
- (2) This Division does not apply in relation to the following tangible personal property:
- (a) tangible personal property that is subject to tax or is exempt from tax under section 63 [*tax if conveyance brought into and used in British Columbia*] or Division 7 [*Multijurisdictional Vehicles*];
 - (b) goods that are for commercial use;
 - (c) motor vehicles and trailers that are required to be registered under the *Motor Vehicle Act*;
 - (c.1) all terrain vehicles that are required to be registered under the *Motor Vehicle (All Terrain) Act*;
 - (d) tangible personal property that is not subject to tax under Division III of Part IX of the *Excise Tax Act* because the tangible personal property is a good included in section 1 or 7 of Schedule VII of that Act;
 - (e) prescribed tangible personal property.

Tax if property brought into British Columbia from outside Canada

- 55** (0.1) In this section, “**taxable value**”, in relation to tangible personal property, means the value of the tangible personal property as determined under section 215 of the *Excise Tax Act*.
- (1) Unless subsection (2) applies, a resident taxpayer who brings tangible personal property into British Columbia from a place outside Canada, or who sends tangible personal property, or enters into an arrangement under which tangible personal property is sent, into British Columbia from a place outside Canada, must, at the time the tangible personal property enters British Columbia,
- (a) report the matter to a customs officer,
 - (b) supply to the customs officer all information required by the customs officer in respect of the tangible personal property, and
 - (c) pay to the government, by paying to the customs officer as agent of the government, tax at the applicable rate under subsections (3) to (3.4).
- (2) Subject to subsection (4), a resident taxpayer must, at the time of receiving, through a postal agent, tangible personal property in British Columbia from a place outside Canada,

- (a) supply to the postal agent all information required by the postal agent in respect of the tangible personal property, and
 - (b) pay to the government, by paying to the postal agent as agent of the government, tax at the applicable rate under subsections (3) to (3.4).
- (3) Subject to subsections (3.1) to (3.4), the rate of tax payable under subsections (1) and (2) is 7% of the taxable value of the tangible personal property.
- (3.1) The rate of tax payable under subsections (1) and (2) on liquor is 10% of the taxable value of the liquor.
- (3.2) The rate of tax payable under subsections (1) and (2) on a manufactured mobile home is 7% of the amount equal to 50% of the taxable value of the manufactured mobile home.
- (3.3) The rate of tax payable under subsections (1) and (2) on a manufactured modular home is 7% of the amount equal to 55% of the taxable value of the manufactured modular home.
- (3.4) The rate of tax payable under subsections (1) and (2) on a portable building is 7% of the amount equal to 45% of the taxable value of the portable building.
- (3.5) Subsections (3.2) to (3.4) do not apply to the following:
- (a) free-standing appliances, free-standing furniture and draperies sold with a manufactured building;
 - (b) repair parts purchased for a manufactured building.
- (4) Subsection (2) does not apply unless there is an agreement in force between the Canada Post Corporation and the government of Canada or an agent of the government of Canada providing for the collection of tax under this Division by that corporation.

Detention of tangible personal property

- 56**
- (1) If a resident taxpayer fails or refuses to comply with section 55, a collection agent may detain the tangible personal property.
 - (2) Tangible personal property detained under subsection (1) must be dealt with as follows:
 - (a) if, within 60 days after the date of the detention, the tax that was payable in respect of the tangible personal property at the time of its detention and any expenses related to the detention are paid and the requirements of section 55 (1) (b) or (2) (a) are met, the tangible personal property must be returned to the resident taxpayer;
 - (b) if the tax and the expenses relating to the detention are not paid within the period referred to in paragraph (a) of this subsection or the requirements of section 55 (1) (b) or (2) (a) are not met within that period, the tangible personal property is forfeited to the government and may be disposed of as directed by the director.

Tax payable to collection agent even though exemption claimed

- 57**
- (1) If a resident taxpayer alleges that tangible personal property is exempt under Part 6 [*Exemptions*] or under the regulations from tax imposed under this Division, the collection agent, in the circumstances specified in the agreement entered into under section 191, may nevertheless require that the resident taxpayer pay the tax.
 - (2) If the collection agent requires payment of the tax under subsection (1), the resident taxpayer

- (a) must pay the tax to the collection agent, and
- (b) may apply to the government of Canada or an agent of the government of Canada for a refund under section 191 (6) (b) of the tax paid in respect of that tangible personal property.

Refund if property brought into British Columbia for temporary use

58 If the director is satisfied that

- (a) a resident taxpayer paid tax under section 55 in relation to tangible personal property, and
- (b) but for section 48 (b) [*application of Division 4*], the resident taxpayer would have paid tax under section 51 [*tax if tangible personal property brought into British Columbia for temporary use*] in relation to the tangible personal property,

the director must refund to the resident taxpayer the amount of tax paid under section 55 less the amount of tax that would have otherwise been payable under section 51.

Division 6 — Conveyances Used Interjurisdictionally

Definitions

59 In this Division:

“**aircraft part**” means a part of an interjurisdictional aircraft;

“**conveyance part**” means a part of an interjurisdictional railway rolling stock or a part of an interjurisdictional conveyance;

“**eligible flights**”, in relation to an interjurisdictional aircraft, means flights originating or terminating in British Columbia or connecting 2 or more points in British Columbia;

“**interjurisdictional aircraft**” means an aircraft used

- (a) interprovincially or internationally for commercial purposes, and
- (b) in eligible flights;

“**interjurisdictional conveyance**” means a vessel or any other conveyance, other than an interjurisdictional aircraft or interjurisdictional railway rolling stock, used in interprovincial or international trade for the commercial carriage of passengers or goods;

“**interjurisdictional railway rolling stock**” means railway rolling stock used interprovincially or internationally;

“**taxable conveyance**” means the following:

- (a) an interjurisdictional aircraft;
- (b) an aircraft part;
- (c) interjurisdictional railway rolling stock;
- (d) an interjurisdictional conveyance;
- (e) a conveyance part.

Tax if conveyance purchased in British Columbia for interjurisdictional use

60 (1) This section applies to a person who

- (a) purchases at a sale in British Columbia a conveyance and, from the date of purchase,
 - (i) in the case of an aircraft, uses the aircraft as an interjurisdictional aircraft,

- (ii) in the case of railway rolling stock, uses the railway rolling stock as interjurisdictional railway rolling stock, and
 - (iii) in the case of a vessel or any other conveyance, other than an aircraft or railway rolling stock, uses the conveyance as an interjurisdictional conveyance, or
- (b) purchases at a sale in British Columbia a part for a conveyance and, from the date of purchase, the part is to be installed in an interjurisdictional aircraft, interjurisdictional railway rolling stock or an interjurisdictional conveyance.
- (2) A person to whom this section applies must pay to the government tax on the taxable conveyance in the amount determined by the following formula:

$$\text{amount} = 7\% \times \text{purchase price} \times \frac{\text{BC usage}}{\text{total usage}}$$

Where

- purchase price = the purchase price of the taxable conveyance;
- BC usage = whichever of the following is applicable:
- (a) in relation to an interjurisdictional aircraft, the number of hours the aircraft will fly in the airspace over British Columbia in eligible flights during the period beginning on the date of purchase of the aircraft and ending on the third anniversary of that date;
 - (b) in relation to an aircraft part, the number of hours the aircraft in which the part is or is to be installed will fly in the airspace over British Columbia in eligible flights during,
 - (i) in the case of a prescribed part, the period beginning on the date of purchase of the prescribed part and ending on the third anniversary of that date, and
 - (ii) in any other case, the year after the date of purchase of the part;
 - (c) in relation to interjurisdictional railway rolling stock or an interjurisdictional conveyance, the distance the conveyance will travel, during the year after its date of purchase, in British Columbia or, if the conveyance is a vessel, in the waters of British Columbia;
 - (d) in relation to a conveyance part, the distance the conveyance in which the part is or is to be installed will travel, during the year after the date of purchase of the part, in British Columbia or, if

- the conveyance is a vessel, in the waters of British Columbia;
- total usage = whichever of the following is applicable:
- (a) in relation to an interjurisdictional aircraft, the total number of hours the aircraft will fly during the period referred to in paragraph (a) of the description of “BC usage”;
 - (b) in relation to an aircraft part, the total number of hours the aircraft in which the part is or is to be installed will fly during the period referred to in paragraph (b) of the description of “BC usage”;
 - (c) in relation to interjurisdictional railway rolling stock or an interjurisdictional conveyance, the total distance the conveyance will travel during the year after its date of purchase;
 - (d) in relation to a conveyance part, the total distance the conveyance in which the part is or is to be installed will travel during the year after the date of purchase of the part.
- (3) Tax payable under subsection (2) must be paid on or before the last day of the month after the month in which the person purchased the conveyance or the part for a conveyance.
- (4) Despite subsection (3), tax payable under subsection (2) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Tax if sale and lease-back of conveyance

- 61** (1) This section applies to a lessee of a conveyance if
- (a) the lessee became lessee by selling the conveyance to the lessor under a sale and immediate lease-back arrangement,
 - (b) the lessee had, before the sale to the lessor, paid
 - (i) as purchaser of the conveyance the tax applicable under section 60, or
 - (ii) the tax applicable under section 63 in relation to the conveyance, and
 - (c) the conveyance is
 - (i) interjurisdictional railway rolling stock, or
 - (ii) an interjurisdictional conveyance.
- (2) A lessee to whom this section applies must pay to the government, in respect of a rental period under the lease, tax calculated in accordance with subsection (3), if the ratio of
- (a) the distance of travel by the conveyance in British Columbia or, if the conveyance is a vessel, in the waters of British Columbia during the rental period
- to
- (b) the total distance of travel by the conveyance during that period
- exceeds the highest ratio of distances that was used to determine the tax payable under section 60 or 63 by the lessee or determined under section 66 (1) by the lessee.

- (3) Tax payable under subsection (2) must be calculated in accordance with the following formula:

$$\text{tax} = 7\% \times \text{lease price} \times (\text{lease ratio} - \text{purchase ratio})$$

Where

- lease price = the lease price of the conveyance attributable to the rental period;
- lease ratio = the ratio of the distance of travel by the conveyance in British Columbia or, if the conveyance is a vessel, in the waters of British Columbia during the rental period to the total distance of travel by the conveyance during that period;
- purchase ratio = the highest ratio of distances used to determine the tax payable under section 60 or 63 by the lessee or determined under section 66 (1) by the lessee.

- (4) For the purposes of calculations under subsections (2) and (3), the distances of travel during a rental period are whichever of the following is applicable:
- (a) if the lease price for a rental period is payable at the end of or after the end of the rental period, the actual distances travelled;
 - (b) in any other case, an estimate made in accordance with section 65 of the distances to be travelled.
- (5) Tax payable under subsection (2) must be paid on or before the last day of the month after the month in which the rental period ends.

Tax if conveyance leased in British Columbia

- 62** (1) Subject to subsection (2), this section applies to the following:
- (a) a lessee who
 - (i) leases, in or outside British Columbia, an aircraft, and
 - (ii) uses, during a rental period under the lease, the aircraft as an interjurisdictional aircraft;
 - (b) a lessee who
 - (i) leases, in or outside British Columbia, any railway rolling stock, and
 - (ii) uses, during a rental period under the lease, the railway rolling stock as interjurisdictional railway rolling stock;
 - (c) a lessee who
 - (i) leases, in or outside British Columbia, a vessel or other conveyance, other than railway rolling stock or an aircraft, and
 - (ii) uses, during a rental period under the lease, the vessel or other conveyance as an interjurisdictional conveyance.
- (2) This section does not apply to a lessee of a conveyance if section 61 applies to the lessee in respect of the conveyance.
- (3) A lessee to whom this section applies must pay to the government, in respect of the rental period referred to in subsection (1), tax calculated in accordance with the following formula:

$$\text{tax} = 7\% \times \text{lease price} \times \frac{\text{BC usage}}{\text{total usage}}$$

Where

lease price = the lease price of the conveyance attributable to the rental period;

BC usage = whichever of the following is applicable:

- (a) in relation to an interjurisdictional aircraft, the number of hours the aircraft will fly during the rental period in the airspace over British Columbia in eligible flights;
- (b) in relation to interjurisdictional railway rolling stock or an interjurisdictional conveyance, the distance the conveyance will travel, during the rental period, in British Columbia or, if the conveyance is a vessel, in the waters of British Columbia;

total usage = whichever of the following is applicable:

- (a) in relation to an interjurisdictional aircraft, the total number of hours the aircraft will fly during that rental period;
- (b) in relation to interjurisdictional railway rolling stock or an interjurisdictional conveyance, the total distance the conveyance will travel during that rental period.

- (4) For the purpose of calculations under subsection (3), the distances of travel during a rental period are whichever of the following is applicable:
 - (a) if the lease price for a rental period is payable at the end of or after the end of the rental period, the actual distances travelled;
 - (b) in any other case, an estimate made in accordance with section 65 of the distances to be travelled.
- (5) Tax payable under subsection (3) must be paid on or before the last day of the month after the month in which the rental period ends.
- (6) Despite subsection (5), tax payable under subsection (3) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Tax if conveyance brought into and used in British Columbia

- 63** (1) Subject to subsection (2), this section applies to a person in relation to a taxable conveyance if
- (a) the person is a BC resident who brings or sends into British Columbia, or receives delivery of in British Columbia, the taxable conveyance and the conveyance is for use
 - (i) by the BC resident,
 - (ii) by another person at the BC resident's expense,
 - (iii) by a principal for whom the BC resident acts as agent, or
 - (iv) by another person at the expense of a principal for whom the BC resident acts as agent,

- (b) the person is a BC resident and a person who is not a BC resident brings or sends into British Columbia, or receives delivery of in British Columbia, the taxable conveyance and the conveyance is for use
 - (i) by the BC resident, or
 - (ii) by the person who is not a BC resident, or by another person, at the BC resident's expense, or
 - (c) the person
 - (i) brings or sends into British Columbia, or receives delivery of in British Columbia, the taxable conveyance, and
 - (ii) uses the conveyance in British Columbia in the course of the person's business, whether or not the business is carried on in British Columbia.
- (2) This section does not apply to a person if any person referred to in subsection (1) has leased the taxable conveyance, as lessee.
- (3) A person to whom this section applies must pay to the government tax on the taxable conveyance in the amount determined by the following formula:

$$\text{amount} = 7\% \times \text{purchase price} \times \frac{\text{BC usage}}{\text{total usage}}$$

Where

purchase price = the purchase price of the taxable conveyance;

BC usage = whichever of the following is applicable:

- (a) in relation to an interjurisdictional aircraft, the number of hours the aircraft will fly in the airspace over British Columbia in eligible flights during the period beginning on the entry date of the aircraft and ending on the third anniversary of that date;
- (b) in relation to an aircraft part, the number of hours the aircraft in which the part is or is to be installed will fly in the airspace over British Columbia in eligible flights during,
 - (i) in the case of a prescribed part, the period beginning on the entry date of the prescribed part and ending on the third anniversary of that date, and
 - (ii) in any other case, the year after the entry date of the part;
- (c) in relation to interjurisdictional railway rolling stock or an interjurisdictional conveyance, the distance the conveyance will travel, during the year after its entry date, in British Columbia or, if the conveyance is a vessel, in the waters of British Columbia;
- (d) in relation to a conveyance part, the distance the conveyance in which the part is or is to be installed will travel, during the year after the entry date of the part, in British Columbia or, if the conveyance is a vessel, in the waters of British Columbia;

total usage = whichever of the following is applicable:

- (a) in relation to an interjurisdictional aircraft, the total number of

- hours the aircraft will fly during the period referred to in paragraph (a) of the description of “BC usage”;
 - (b) in relation to an aircraft part, the total number of hours the aircraft in which the part is or is to be installed will fly during the period referred to in paragraph (b) of the description of “BC usage”;
 - (c) in relation to interjurisdictional railway rolling stock or an interjurisdictional conveyance, the total distance the conveyance will travel during the year after its entry date;
 - (d) in relation to a conveyance part, the total distance the conveyance in which the part is or is to be installed will travel during the year after the entry date of the part.
- (4) Tax payable under subsection (3) must be paid on or before the last day of the month after the month that includes the entry date of the taxable conveyance.
- (5) Despite subsection (4), tax payable under subsection (3) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Tax if change in use of conveyance acquired for resale

64 (1) This section applies to a person who

- (a) purchased in British Columbia, brought or sent into British Columbia, or received delivery of in British Columbia, a conveyance for resale, becomes, for any period, a user of the conveyance and, from the date on which the person becomes the user,
 - (i) in the case of an aircraft, uses the aircraft as an interjurisdictional aircraft,
 - (ii) in the case of railway rolling stock, uses the railway rolling stock as interjurisdictional railway rolling stock, and
 - (iii) in the case of a vessel or any other conveyance, other than an aircraft or railway rolling stock, uses the vessel or other conveyance as an interjurisdictional conveyance, or
 - (b) purchased in British Columbia, brought or sent into British Columbia, or received delivery of in British Columbia, a part for a conveyance for resale, becomes, for any period, a user of a conveyance in which the part is installed and, from the date on which the person becomes the user,
 - (i) in the case of an aircraft, uses the aircraft as an interjurisdictional aircraft,
 - (ii) in the case of railway rolling stock, uses the railway rolling stock as interjurisdictional railway rolling stock, and
 - (iii) in the case of a vessel or any other conveyance, other than an aircraft or railway rolling stock, uses the vessel or other conveyance as an interjurisdictional conveyance.
- (2) A person to whom this section applies must pay to the government tax on the taxable conveyance in the amount determined by the following formula:

$$\text{amount} = 7\% \times \text{purchase price} \times \frac{\text{BC usage}}{\text{total usage}}$$

Where

purchase price = the purchase price of the taxable conveyance;

BC usage = whichever of the following is applicable:

- (a) in relation to an interjurisdictional aircraft, the number of hours the aircraft will fly in the airspace over British Columbia in eligible flights during the period beginning on the date the person becomes the user of the aircraft and ending on the third anniversary of that date;
- (b) in relation to an aircraft part, the number of hours the aircraft in which the part is or is to be installed will fly in the airspace over British Columbia in eligible flights during,
 - (i) in the case of a prescribed part, the period beginning on the date the person becomes the user of the prescribed part and ending on the third anniversary of that date, and
 - (ii) in any other case, the year after the date the person becomes the user of the part;
- (c) in relation to interjurisdictional railway rolling stock or an interjurisdictional conveyance, the distance the conveyance will travel, during the year after the date the person becomes the user of the conveyance, in British Columbia or, if the conveyance is a vessel, in the waters of British Columbia;
- (d) in relation to a conveyance part, the distance the conveyance in which the part is or is to be installed will travel, during the year after the date the person becomes the user of the conveyance, in British Columbia or, if the conveyance is a vessel, in the waters of British Columbia;

total usage = whichever of the following is applicable:

- (a) in relation to an interjurisdictional aircraft, the total number of hours the aircraft will fly during the period referred to in paragraph (a) of the description of “BC usage”;
- (b) in relation to an aircraft part, the total number of hours the aircraft in which the part is or is to be installed will fly during the period referred to in paragraph (b) of the description of “BC usage”;
- (c) in relation to interjurisdictional railway rolling stock or an interjurisdictional conveyance, the total distance the conveyance will travel during the year after the date the person becomes the user of the

conveyance;

- (d) in relation to a conveyance part, the total distance the conveyance in which the part is or is to be installed will travel during the year after the date the person becomes the user of the conveyance.
- (3) Tax payable under subsection (2) must be paid on or before the last day of the month after the month in which the person first becomes a user of the conveyance.
- (4) Despite subsection (3), tax payable under subsection (2) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Estimate of hours or distance conveyance will travel

- 65** (1) In this section, “**relevant provision**” means sections 60 (2), 62 (3), 63 (3) and 64 (2).
- (2) For the purposes of the relevant provisions, the following must be based on a reasonable estimate:
 - (a) the number of hours or the distance a conveyance will travel during the relevant period in the airspace over, in the waters of or in British Columbia;
 - (b) the total number of hours or the total distance the conveyance will travel during the period referred to in paragraph (a).

Adjustment of tax

- 66** (1) If, for the purposes of a relevant provision as defined in section 65 (1), an estimate is made under section 65 for a relevant period in relation to a conveyance, at the end of the period the person to whom section 60 (2), 61 (2), 62 (3), 63 (3) or 64 (2) applies must determine the following:
 - (a) the actual number of hours or the actual distance the conveyance travelled during the relevant period in the airspace over, in the waters of or in British Columbia;
 - (b) the total actual number of hours or the total actual distance the conveyance travelled during that relevant period;
 - (c) the amount determined by the formula in section 60 (2), 61 (3), 62 (3), 63 (3) or 64 (2), using the hours and distance determined under paragraphs (a) and (b) of this subsection instead of the estimated hours and distance.
- (2) If the amount determined under subsection (1) (c) for a relevant period exceeds the amount determined under the applicable section for the relevant period based on the reasonable estimate under section 65, the person to whom the applicable section applies must pay to the government tax equal to the amount of the excess.
- (3) Tax payable under subsection (2) must be paid on or before the last day of the month after the month in which the relevant period ends.
- (3.1) Despite subsection (3), tax payable under subsection (2) by a registrant must be paid at or before the prescribed time and in the prescribed manner.
- (4) If the director is satisfied that the amount determined under the applicable section for a relevant period based on the reasonable estimate under section 65 exceeds the amount determined under subsection (1) (c) of this section for the relevant period, the director must refund to the person to whom the applicable section applies the amount of the excess.

Refund for conveyances used interjurisdictionally

67 If the director is satisfied that

- (a) a person has paid tax under section 37 [tax on purchase], 39 [tax on leases] or 49 [tax if tangible personal property brought into British Columbia for use] in respect of a conveyance or a part for a conveyance, and
- (b) the person ought to have paid tax under section 60, 62 or 63, as applicable, in respect of the conveyance or part instead of paying tax under section 37, 39 or 49,

the director must refund to that person the difference between the tax paid by the person on the conveyance or part and the tax that ought to have been paid in accordance with this Division.

Division 7 — Multijurisdictional Vehicles

Definitions

68 In this Division:

“**acquisition date**” means,

- (a) in the case of a purchased vehicle, the date on which the vehicle is purchased,
- (b) in the case of a leased vehicle, the date on which the lessee first becomes entitled, under the lease, to have access to the vehicle, or
- (c) in the case of a vehicle that is a gift, the date the recipient of the gift receives possession of the vehicle;

“**acquisition year**” means,

- (a) in the case of a purchased vehicle, the calendar year in which the vehicle is purchased,
- (b) in the case of a leased vehicle, the calendar year in which the lessee first becomes entitled, under the lease, to have access to the vehicle, or
- (c) in the case of a vehicle that is a gift, the calendar year in which the recipient of the gift receives possession of the vehicle;

“**bus**” has the same meaning as in the *Motor Vehicle Act*;

“**calculation year**” means the period beginning on July 1 and ending on the following June 30;

“**fleet licence year**”, in respect of vehicles licensed as part of a fleet to which a prorating agreement applies, means the period beginning on a fleet licensing date for the fleet vehicles and ending on the day before the anniversary of that fleet licensing date;

“**prorating agreement**” means an agreement made under section 10 (1) of the *Commercial Transport Act*;

“**travel ratio**”, in respect of a vehicle, means the travel ratio determined in accordance with section 69 (4);

“**vehicle**” does not include a trailer;

“**vehicle taxable value**” means, in respect of a vehicle

- (a) that is purchased for fair market value, the purchase price of the vehicle,
- (b) that is a leased vehicle, the greater of the purchase price of the vehicle, as described in the lease, and the fair market value of the vehicle on the vehicle’s acquisition date, or

- (c) that is acquired for less than fair market value, the fair market value of the vehicle on the vehicle's acquisition date,
and includes any capital expenditure made to the vehicle within 30 days after the vehicle's acquisition date.

Tax if multijurisdictional vehicle licensed

- 69** (1) The following persons must pay to the government tax, in accordance with this Division, for a vehicle licence period:
- (a) a person who licenses a vehicle in British Columbia under a licence to which a prorating agreement applies;
 - (b) a person who licenses a vehicle outside British Columbia under a licence to which a prorating agreement applies and, in the vehicle licence period, brings or sends that vehicle into British Columbia.

- (2) Tax payable under subsection (1) in respect of a vehicle for a vehicle licence period must be calculated in accordance with the following formula:

$$\text{tax} = \text{taxable value} \times \text{rate} \times \text{travel ratio} \times \text{travel months}$$

Where

- taxable value = the vehicle taxable value;
 rate = the tax rate
 (a) established under subsection (3) if the vehicle is not a bus, or
 (b) established under subsection (3.1) if the vehicle is a bus;
 travel ratio = the travel ratio for the vehicle;
 travel months = the number of whole and partial months in the vehicle licence period at the time that the vehicle is licensed, divided by 12.

- (3) In each calendar year in which tax is payable under subsection (1), the tax rate in respect of a vehicle, other than a bus, is the rate shown opposite the applicable calendar year as follows:

Calendar Year	Tax Rate
acquisition year	3.294%
1st calendar year after the acquisition year	2.646%
2nd calendar year after the acquisition year	2.177%
3rd calendar year after the acquisition year	1.838%
4th calendar year after the acquisition year	1.597%
5th calendar year after the acquisition year	1.577%
6th calendar year after the acquisition year	1.509%
7th calendar year after the acquisition year	1.486%
8th calendar year after the acquisition year	1.497%
9th and subsequent calendar years after the acquisition year	1.533%

- (3.1) In each calendar year in which tax is payable under subsection (1), the tax rate in respect of a bus is the rate shown opposite the applicable calendar year as follows:

Calendar Year	Tax Rate
acquisition year	2.708%
1st calendar year after the acquisition year	2.046%
2nd calendar year after the acquisition year	1.559%
3rd calendar year after the acquisition year	1.200%
4th calendar year after the acquisition year	0.940%
5th calendar year after the acquisition year	0.816%
6th calendar year after the acquisition year	0.674%
7th calendar year after the acquisition year	0.570%
8th calendar year after the acquisition year	0.564%
9th and subsequent calendar years after the acquisition year	0.506%

- (4) The travel ratio for a vehicle is as follows:
- (a) if none of the vehicles in the fleet, while part of that fleet, were multijurisdictional vehicles for at least 90 days during the calculation year preceding the fleet licensing date, the ratio of
 - (i) a reasonable estimate of the distance that the vehicles in the fleet will travel in British Columbia during the fleet licence year
 to
 - (ii) a reasonable estimate of the total distance that the vehicles in the fleet will travel in the fleet licence year;
 - (b) if one or more of the vehicles in the fleet, while part of that fleet, were multijurisdictional vehicles for at least 90 days during the calculation year preceding the fleet licensing date, the ratio of
 - (i) the distance travelled in British Columbia by the vehicles of the fleet in the period beginning on the first date in that calculation year that a vehicle in the fleet became a multijurisdictional vehicle or on the first day of the calculation year, whichever is later, and ending on the last day of the calculation year
 to
 - (ii) the total distance travelled by the vehicles of the fleet during that same period.

When tax under section 69 must be paid

- 70** (1) Tax payable under section 69 (1) for a vehicle licence period in respect of a vehicle must be paid as follows:
- (a) if the vehicle is licensed in British Columbia, the tax must be paid to the government, by paying the tax to the Insurance Corporation of British Columbia, at the time that the vehicle is licensed for that vehicle licence period;

- (b) in any other case, unless paid earlier under subsection (2), the tax must be paid to the government on or before the last day of the month after the month in which the vehicle first enters British Columbia in that vehicle licence period.
- (2) If the vehicle in respect of which tax is payable under this Division is licensed in a prescribed jurisdiction outside British Columbia, the tax may be paid, by paying the tax to the prescribed jurisdiction, at the time that the vehicle is licensed in that jurisdiction for that vehicle licence period.

Adjustment of tax under section 69

- 71** (1) If a person is required to pay tax imposed under section 69 in respect of a vehicle for a vehicle licence period and the tax payable under that section is calculated using a travel ratio for the vehicle determined under section 69 (4) (a), the person must determine the following at the end of the vehicle licence period:
- (a) the actual distance the vehicles in the fleet of vehicles referred to in section 69 (4) (a) travelled in British Columbia during the fleet licence year;
 - (b) the actual total distance that the vehicles in the fleet travelled during that fleet licence year;
 - (c) the amount calculated by the formula in section 69 (2), using the distances determined under paragraphs (a) and (b) of this subsection instead of the estimated distance under section 69 (4) (a).
- (2) If the amount determined under subsection (1) (c) for a vehicle licence period exceeds the amount determined under section 69 (2) for the vehicle licence period based on the reasonable estimates under section 69 (4) (a), the person who is required to pay tax imposed under section 69 in respect of a vehicle for a vehicle licence period must pay to the government tax equal to the amount of the excess.
- (3) Tax payable under subsection (2) must be paid on or before the last day of the month after the month in which the vehicle licence period ends.
- (4) If the director is satisfied that the amount determined under section 69 (2) for the vehicle licence period based on the reasonable estimates under section 69 (4) (a) exceeds the amount determined under subsection (1) (c) of this section for the vehicle licence period, the director must refund to the person who paid tax under section 69 the amount of the excess.

Tax if vehicle ceases to be multijurisdictional and licensed by person who held prorating agreement licence

- 72** (1) Subject to subsection (2), this section applies to a person in relation to a vehicle if the person
- (a) licensed the vehicle under a licence to which a prorating agreement applies,
 - (b) paid tax under one or both of sections 69 and 71 in respect of the vehicle, and
 - (c) subsequently licenses the vehicle for use solely within British Columbia.
- (2) This section does not apply to a person in relation to a vehicle if
- (a) the person, as lessee, leases the vehicle,
 - (b) the person previously licensed the vehicle for use solely within British Columbia before licensing the vehicle under a licence to which a prorating agreement applies.

- (3) A person to whom this section applies must pay to the government tax at the rate of 7% of the purchase price of the vehicle.
- (4) Tax payable under subsection (3) must be paid to the government by paying the tax to the Insurance Corporation of British Columbia at the time the vehicle is subsequently licensed for use solely within British Columbia.
- (5) If the vehicle referred to in subsection (3) is, before the end of the fleet licence year applicable to the vehicle, subsequently licensed by the person for use solely within British Columbia, the Insurance Corporation of British Columbia must provide to the person, at the time the vehicle is subsequently licensed for use solely within British Columbia, a credit in relation to the tax paid by that person under one or both of sections 69 and 71 in respect of the vehicle.
- (6) The credit to which a person is entitled under subsection (5)
 - (a) must be calculated in accordance with the regulations,
 - (b) must be applied against the tax payable under subsection (3) by the person in respect of the vehicle, and
 - (c) must not be provided to the person in any other manner.

Tax if vehicle ceases to be multijurisdictional and licensed by person who did not hold prorating agreement licence

- 72.1** (1) Subject to subsection (2), this section applies to a person in relation to a vehicle if
- (a) the person transferred the vehicle under an agreement but retained a beneficial interest in the vehicle,
 - (b) the vehicle was licensed by another person under a licence to which a prorating agreement applies and that person paid tax under one or both of sections 69 and 71, and
 - (c) the vehicle is, before the end of the fleet licence year applicable to that vehicle, subsequently licensed for use solely within British Columbia by the person referred to in paragraph (a).
- (2) This section does not apply to a person in relation to a vehicle if
- (a) the person, as lessee, leases the vehicle, or
 - (b) any person referred to in subsection (1) licensed the vehicle for use solely within British Columbia before licensing the vehicle under a licence to which a prorating agreement applies.
- (3) A person to whom this section applies must pay to the government tax at the rate of 7% of the purchase price of the vehicle.
 - (4) Tax payable under subsection (3) must be paid to the government by paying the tax to the Insurance Corporation of British Columbia at the time that the vehicle is subsequently licensed for use solely within British Columbia.
 - (5) If the vehicle referred to in subsection (3) is, before the end of the fleet licence year applicable to the vehicle, subsequently licensed by the person for use solely within British Columbia, the Insurance Corporation of British Columbia must provide to the person, at the time the vehicle is subsequently licensed for use solely within British Columbia, a

credit in relation to the tax paid under one or both of sections 69 and 71 in respect of the vehicle.

- (6) The credit to which a person is entitled under subsection (5)
 - (a) must be calculated in accordance with the regulations,
 - (b) must be applied against the tax payable under subsection (3) by the person in respect of the vehicle, and
 - (c) must not be provided to the person in any other manner.

Liability of other persons

- 73** If tax is payable by a person under this Division in respect of a vehicle for a vehicle licence period, any other person who had management of or the right to determine the utilization of the vehicle while it was in British Columbia during the vehicle licence period is jointly and severally liable with any other person liable for that tax.

Refund or credit of tax if fleet licensing changed

- 74** (0.1) In this section, “**licensed**” means licensed under a licence to which a prorating agreement applies.

- (1) If a vehicle that was licensed by a person as part of a fleet is, before the end of the fleet licence year applicable to that fleet, licensed by the person as part of a different fleet,
 - (a) that person must pay to the government tax imposed under section 69 (1) in respect of the vehicle’s vehicle licence period when licensed as part of the different fleet, and
 - (b) that person is entitled to a credit under subsection (2) or refund under subsection (3) in relation to the tax paid by that person under one or both of sections 69 and 71 in respect of the vehicle for the last vehicle licence period under the previous licence.
- (1.1) Subsection (1.2) applies in relation to a vehicle if
 - (a) a person transferred the vehicle under an agreement but retained a beneficial interest in the vehicle,
 - (b) the vehicle was licensed by another person as part of a fleet,
 - (c) the vehicle is, before the end of the fleet licence year applicable to that fleet, licensed by the person referred to in paragraph (a) or by a third person as part of a different fleet, and
 - (d) the person referred to in paragraph (a) retains a beneficial interest in the vehicle.
- (1.2) If this subsection applies in relation to a vehicle, the person who licensed the vehicle as part of the different fleet referred to in subsection (1.1) (c)
 - (a) must pay to the government tax imposed under section 69 (1) in respect of the vehicle’s vehicle licence period when licensed as part of the different fleet, and
 - (b) is entitled to a credit under subsection (2) or refund under subsection (3) in relation to the tax paid under one or both of sections 69 and 71 in respect of the vehicle for the last vehicle licence period under the previous licence.
- (2) If the vehicle that is licensed as part of a different fleet is licensed in British Columbia, the Insurance Corporation of British Columbia must provide to the person, at the time the vehicle is licensed as part of the different fleet, a credit of a portion of the tax previously paid under one or both of sections 69 and 71 in respect of the vehicle for the last vehicle

licence period under the previous licence against the amount of any tax that the person is required to pay under this Division.

- (3) If the vehicle that is licensed as part of a different fleet is not licensed in British Columbia, the director may pay to the person a refund of a portion of the tax previously paid under one or both of sections 69 and 71 in respect of the vehicle for the last vehicle licence period under the previous licence.
- (4) The credit to which a person is entitled under subsection (2)
 - (a) must be calculated in accordance with the regulations,
 - (b) must be applied against any tax payable under this Division by the person in respect of the vehicle until the full amount of the credit has been applied in that manner, and
 - (c) must not be provided to the person in any other manner.
- (5) A refund under subsection (3) must be calculated in accordance with the regulations.

Refund if not entitled to credit under section 72 or 72.1

- 74.1** (1) The director must pay to a person a refund of a portion of the tax paid by the person under one or both of sections 69 and 71 in respect of a vehicle for the last vehicle licence period under a licence to which a prorating agreement applies if the director is satisfied that
- (a) the person licensed the vehicle under a licence to which a prorating agreement applies,
 - (b) the person paid tax under one or both of sections 69 and 71 in respect of the vehicle,
 - (c) the person, before the end of the fleet licence year applicable to that vehicle, subsequently licenses the vehicle for use solely within British Columbia, and
 - (d) the person is not entitled to a credit under section 72 or 72.1.
- (2) A refund under subsection (1) must be calculated in accordance with the regulations.

Credit if tax previously paid

- 75** (1) The Insurance Corporation of British Columbia must provide a credit to a person who licenses a vehicle in British Columbia under a licence to which a prorating agreement applies if
- (a) the vehicle is so licensed before the end of the 4th calendar year after the calendar year in which is its acquisition date, and
 - (b) [Repealed]
 - (c) the person had previously paid tax on the purchase price of the vehicle under
 - (i) section 37 [*tax on purchase*],
 - (ii) section 49 (5) [*tax if tangible personal property brought into British Columbia for use*], as that tax was calculated under section 49 (6), or
 - (iii) section 50 [*tax on registration of vehicle brought into British Columbia*].
- (1.1) The Insurance Corporation of British Columbia must provide a credit to a person who licenses a vehicle in British Columbia under a licence to which a prorating agreement applies if
- (a) the vehicle is transferred to the person under an agreement but the transferor retains a beneficial interest in the vehicle,

- (b) the vehicle is so licensed before the end of the 4th calendar year after the calendar year in which is the transferor's acquisition date for the vehicle, and
 - (c) the transferor referred to in paragraph (a) had previously paid tax on the purchase price of the vehicle under
 - (i) section 37 [*tax on purchase*],
 - (ii) section 49 (5) [*tax if tangible personal property brought into British Columbia for use*], as that tax was calculated under section 49 (6), or
 - (iii) section 50 [*tax on registration of vehicle brought into British Columbia*].
- (2) The credit to which a person is entitled under subsection (1) or (1.1)
- (a) must be calculated in accordance with the regulations,
 - (b) must be applied against any tax payable under this Division by the person in respect of the vehicle until the full amount of the credit has been applied in that manner, and
 - (c) must not be provided to the person in any other manner.

Refund or credit for trade-in vehicles

76 (1) In this section:

“**new vehicle**” means the vehicle referred to in the definition of “trade-in vehicle” in respect of which tax is payable under section 69 [*tax if multijurisdictional vehicle licensed*];

“**trade-in vehicle**” means a multijurisdictional vehicle on which tax has been paid under this Division and that, before the expiration of its current vehicle licence period, is accepted at the time of sale by the seller on account of the purchase price of another multijurisdictional vehicle in respect of which tax is payable under section 69.

- (2) If the new vehicle is licensed in British Columbia under a licence to which a prorating agreement applies, the Insurance Corporation of British Columbia must provide to the person licensing the new vehicle, at the time the vehicle is licensed, a credit of a portion of the tax paid under this Division on the trade-in vehicle against the amount of tax the person is required to pay under this Division in respect of the new vehicle.
- (3) If the new vehicle is licensed outside British Columbia under a licence to which a prorating agreement applies, the director may provide to the person who licensed the new vehicle a refund of a portion of the tax paid on the trade-in vehicle.
- (4) Subject to subsection (5), the credit under subsection (2) and the refund under subsection (3) must be limited to the tax paid under this Division that is attributable to the portion of the current vehicle licence period of the trade-in vehicle remaining after the trade-in vehicle has been traded.
- (5) The credit to which a person is entitled under subsection (2)
 - (a) must be calculated in accordance with the regulations,
 - (b) must be applied against any tax payable under this Division by the person in respect of the vehicle until the full amount of the credit has been applied in that manner, and
 - (c) must not be provided to the person in any other manner.
- (6) A refund under subsection (3) must be calculated in accordance with the regulations.

Refund for replacement vehicles

- 77 (1) In this section, “**replacement vehicle**” means a vehicle that is leased to be used as a replacement for a multijurisdictional vehicle that
- (a) is being repaired, and
 - (b) is therefore unavailable for use during part of its vehicle licence period.
- (2) Subject to subsections (3) and (4), if the director is satisfied that
- (a) a person has paid tax under this Division or under section 39 (1) on a replacement vehicle,
 - (b) tax has been paid under this Division on the multijurisdictional vehicle being repaired, and
 - (c) the replacement vehicle is used only
 - (i) in accordance with the terms of the licence that was issued for the multijurisdictional vehicle being repaired, and
 - (ii) for the purposes for which that multijurisdictional vehicle would be used were it not being repaired,
- the director must refund to the person the tax referred to in paragraph (a).
- (3) Any refund under this section is, if the refund is in respect of tax paid under section 39 (1), limited to the tax paid on lease payments for the replacement vehicle in respect of rental periods, or portions of rental periods, that are wholly within
- (a) the period during which the multijurisdictional vehicle is being repaired, and
 - (b) the vehicle licence period of the multijurisdictional vehicle.
- (4) Any refund under this section is, if the refund is in respect of tax paid under this Division, limited to the tax paid that is attributable to the portion of the replacement vehicle’s vehicle licence period that is wholly within
- (a) the period during which the multijurisdictional vehicle is being repaired, and
 - (b) the vehicle licence period of the multijurisdictional vehicle.

Refund for short term rental vehicles

- 78 If the director is satisfied that
- (a) a person paid tax under this Division in relation to a multijurisdictional vehicle that
 - (i) is a short term rental vehicle, and
 - (ii) is leased, during a vehicle licence period, primarily to other persons who must pay tax under section 39 [*tax on leases*] in relation to the lease, and
 - (b) tax was collected and remitted as required under this Act in respect of tax payable under section 39 on the lease of the short term rental vehicle during the vehicle licence period,
- the director must refund to the person the tax paid under this Division for that vehicle licence period in relation to the multijurisdictional vehicle.

Division 8 — Affixed Machinery and Improvements to Real Property

Contractor exempt from tax under section 37 or 49

- 79** (1) A contractor is exempt from tax imposed under section 37 [*tax on purchase*] in relation to tangible personal property if
- (a) the contractor, for the purposes of fulfilling a contract under which the contractor is required to supply and affix, or install, affixed machinery or improvements to real property, purchases the tangible personal property at a sale in British Columbia,
 - (b) under the terms of the contract, the tangible personal property will be used so that it ceases to be personal property at common law,
 - (c) there is an agreement between the contractor and the person with whom the contractor has entered into the contract that
 - (i) specifically states that the person is liable for tax imposed under section 80, and
 - (ii) sets out the purchase price of the tangible personal property referred to in paragraph (a) that is subject to tax imposed under section 80, and
 - (d) there is written evidence of the agreement referred to in paragraph (c).
- (2) A contractor is exempt from tax imposed under section 49 [*tax if tangible personal property brought into British Columbia for use*] in relation to tangible personal property if
- (a) the contractor, for the purposes of fulfilling a contract under which the contractor is required to supply and affix, or install, affixed machinery or improvements to real property, brings or sends into British Columbia, or receives delivery of in British Columbia, the tangible personal property,
 - (b) under the terms of the contract, the tangible personal property will be used so that it ceases to be personal property at common law,
 - (c) there is an agreement between the contractor and the person with whom the contractor has entered into the contract that
 - (i) specifically states that the person is liable for tax imposed under section 80, and
 - (ii) sets out the purchase price of the tangible personal property referred to in paragraph (a) that is subject to tax imposed under section 80, and
 - (d) there is written evidence of the agreement referred to in paragraph (c).

Tax on tangible personal property used to improve real property if contractor exempt

- 80** (1) This section applies to a person in relation to tangible personal property if
- (a) the person has entered into the contract referred to in section 79 (1) (a) or (2) (a) with a contractor in relation to the tangible personal property, and
 - (b) the contractor is exempt under section 79 from tax imposed under section 37 [*tax on purchase*] or 49 [*tax if tangible personal property brought into British Columbia for use*] in relation to the tangible personal property.
- (2) A person to whom this section applies must pay to the government tax on the tangible personal property at the applicable rate under section 34.

- (3) If tax is paid under this section in respect of tangible personal property, then no tax is payable in respect of that property under section 37 or 49.

Contractor exempt from tax under section 37 or 49 if other person would be exempt

- 80.1** (1) Subject to subsection (3), a contractor is exempt from tax imposed under section 37 [*tax on purchase*] in relation to tangible personal property if
- (a) the contractor, for the purposes of fulfilling a written contract under which the contractor is required to supply and affix, or install, affixed machinery or improvements to real property, purchases the tangible personal property at a sale in British Columbia,
 - (b) under the terms of the contract, the tangible personal property will be used so that it ceases to be personal property at common law, and
 - (c) the other party who entered into the contract with the contractor is
 - (i) the government of Canada, or
 - (ii) a person who would be exempt under this Act or under section 87 of the *Indian Act* (Canada) from tax imposed under section 37 of this Act if the person were to purchase the tangible personal property.
- (2) Subject to subsection (3), a contractor is exempt from tax imposed under section 49 [*tax if tangible personal property brought into British Columbia for use*] in relation to tangible personal property if
- (a) the contractor, for the purposes of fulfilling a written contract under which the contractor is required to supply and affix, or install, affixed machinery or improvements to real property, brings or sends into British Columbia, or receives delivery of in British Columbia, the tangible personal property,
 - (b) under the terms of the contract, the tangible personal property will be used so that it ceases to be personal property at common law,
 - (c) the other party who entered into the contract with the contractor is
 - (i) the government of Canada, or
 - (ii) a person who would be exempt under this Act or under section 87 of the *Indian Act* (Canada) from tax imposed under section 49 of this Act if the person were to bring or send into British Columbia, or receive delivery of in British Columbia, the tangible personal property.
- (3) Subsection (1) or (2) does not apply if the government of Canada has entered into an agreement with the government of British Columbia under which the government of Canada has agreed to pay tax imposed under this Act.

Refund of tax paid under Division 5 by contractor

- 80.2** (1) The director must refund to a contractor the tax paid under Division 5 [*Property Brought into British Columbia from Outside Canada*] by the contractor in relation to tangible personal property if the director is satisfied that
- (a) the contractor, for the purposes of fulfilling a contract under which the contractor is required to supply and affix, or install, affixed machinery or improvements to real property, brings the tangible personal property into British Columbia from a place outside Canada or sends the tangible personal property, or enters into an arrangement

- under which the tangible personal property is sent, into British Columbia from a place outside Canada,
 - (b) the contractor paid tax under Division 5 in relation to the tangible personal property,
 - (c) under the terms of the contract, the tangible personal property will be used so that it ceases to be personal property at common law,
 - (d) there is an agreement between the contractor and the person with whom the contractor has entered into the contract that
 - (i) specifically states that the person is liable for tax imposed under section 80.3, and
 - (ii) sets out the purchase price of the tangible personal property referred to in paragraph (a) that is subject to tax under section 80.3, and
 - (e) there is written evidence of the agreement referred to in paragraph (c).
- (2) Subject to subsection (3), the director must refund to a contractor the tax paid under Division 5 [*Property Brought into British Columbia from Outside Canada*] by the contractor in relation to tangible personal property if the director is satisfied that
- (a) the contractor, for the purposes of fulfilling a contract under which the contractor is required to supply and affix, or install, affixed machinery or improvements to real property, brings the tangible personal property into British Columbia from a place outside Canada or sends the tangible personal property, or enters into an arrangement under which the tangible personal property is sent, into British Columbia from a place outside Canada,
 - (b) the contractor paid tax under Division 5 in relation to the tangible personal property,
 - (c) under the terms of the contract, the tangible personal property will be used so that it ceases to be personal property at common law, and
 - (d) the other party who entered into the contract with the contractor is
 - (i) the government of Canada, or
 - (ii) a person who would be exempt under this Act or under section 87 of the *Indian Act* (Canada) from tax imposed under section 49 of this Act if the person were to bring or send into British Columbia, or receive delivery of in British Columbia, the tangible personal property.
- (3) Subsection (2) does not apply if the government of Canada has entered into an agreement with the government of British Columbia under which the government of Canada has agreed to pay tax imposed under this Act.

Tax on tangible personal property used to improve real property if contractor obtained refund

- 80.3** (1) This section applies to a person in relation to tangible personal property if
- (a) the person has entered into a contract referred to in section 80.2 (1) (a) with a contractor in relation to the tangible personal property, and
 - (b) the contractor has obtained a refund under section 80.2 in relation to the tangible personal property.
- (2) A person to whom this section applies must pay to the government tax on the tangible personal property at the applicable rate under section 34.

Tax if change in use of tangible personal property used to improve real property

- 80.4** (1) This section applies to a person in relation to tangible personal property if
- (a) the person has entered into a contract referred to in section 80.1 (1) (a) or (2) (a) or 80.2 (2) (a) with a contractor in relation to the property,
 - (b) the contractor was exempt under section 80.1 (1) (c) (ii) or (2) (c) (ii) or entitled to a refund under section 80.2 (2) (d) (ii) because the person would have been exempt from tax under this Act because the property was to be used for a particular purpose, and
 - (c) the person subsequently uses that property, or allows that property to be used, for a purpose other than
 - (i) the particular purpose, or
 - (ii) another purpose for which the property would have been exempt from tax under this Act if the property was to be used for that purpose.
- (2) A person to whom this section applies must pay to the government tax on the purchase price of the tangible personal property at the applicable rate under section 34.
- (3) Tax payable under subsection (2) must be paid on or before the last day of the month after the month in which the person first uses that property, or allows that property to be used, as referred to in subsection (1) (c).
- (4) Despite subsection (3), tax payable under subsection (2) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Transitional tax on tangible personal property used by contractor to improve real property

- 80.5** (1) This section applies to a contractor in relation to tangible personal property if
- (a) the contractor, for the purposes of fulfilling a contract under which the contractor is required to supply and affix, or install, affixed machinery or improvements to real property,
 - (i) purchased tangible personal property at a sale in British Columbia, or
 - (ii) brought or sent into British Columbia, or received delivery of in British Columbia, the tangible personal property, and
 - (b) under the terms of the contract, the tangible personal property is used so that it ceases to be personal property at common law.
- (2) A contractor to whom this section applies must pay to the government tax on the tangible personal property at the applicable rate under section 34.
- (3) The amount of tax payable under subsection (2) by a contractor in relation to tangible personal property is reduced by the following:
- (a) the amount of tax under section 37, 49 or 55 previously paid by the contractor in relation to the tangible personal property and for which the contractor has not obtained or is not entitled to obtain a refund under this Act;
 - (b) the amount of tax under the *Social Service Tax Act* previously paid by the contractor in relation to the tangible personal property and for which the contractor has not obtained or is not entitled to obtain a refund under that Act;

- (c) the amount of 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 British Columbia as a participating province under Part IX of that Act, previously paid by the contractor in relation to the tangible personal property and for which the contractor has not obtained or is not entitled to obtain a refund, credit or rebate under Part IX of that Act.
- (4) Tax payable under subsection (2) must be paid on or before the last day of the month after the month in which the contractor uses the tangible personal property in a manner such that the tangible personal property ceases to be personal property at common law.
- (5) Despite subsection (4), tax payable under subsection (4) by a registrant must be paid at or before the prescribed time and in the prescribed manner.
- (6) A contractor is exempt from tax imposed under subsection (2) in relation to tangible personal property if
 - (a) there is an agreement between the contractor and the person with whom the contractor has entered into the contract referred to in subsection (1) (a) that
 - (i) specifically states that the person is liable for tax imposed under section 80.6, and
 - (ii) sets out the purchase price of the tangible personal property referred to in subsection (1) (a) that is subject to tax imposed under section 80.6, and
 - (b) there is written evidence of the agreement referred to in paragraph (a).

Transitional tax on tangible personal property used to improve real property

- 80.6** (1) This section applies to a person in relation to tangible personal property if
- (a) the person has entered into the contract referred to in section 80.5 (1) (a), and
 - (b) the contractor is exempt under section 80.5 (6) from tax imposed under section 80.5 (2) in relation to the tangible personal property.
- (2) A person to whom this section applies must pay to the government tax on the tangible personal property at the applicable rate under section 34.
- (3) The amount of tax payable under subsection (2) by a person in relation to tangible personal property is reduced by the following:
- (a) the amount of tax under section 80 previously paid by the person in relation to the tangible personal property and for which the person has not obtained or is not entitled to obtain a refund under this Act;
 - (b) the amount of tax under the *Social Service Tax Act* previously paid by the person or the contractor in relation to the tangible personal property and for which the person or the contractor has not obtained or is not entitled to obtain a refund under that Act;
 - (c) the amount of 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 British Columbia as a participating province under Part IX of that Act, previously paid by the person in relation to the tangible personal property and for which the person has not obtained or is not entitled to obtain a refund, credit or rebate under Part IX of that Act.

Transitional tax on tangible personal property incorporated into property subject to tax under the *New Housing Transition Tax and Rebate Act*

80.7 (1) In this section:

“**taxable sale**” has the same meaning as in the *New Housing Transition Tax and Rebate Act* if that Act were read without reference to section 1 (2) and (3);

“**taxable self-supply**” has the same meaning as in the *New Housing Transition Tax and Rebate Act* if that Act were read without reference to section 1 (3).

- (2) Subject to subsection (3), this section applies to a person in relation to tangible personal property if
- (a) the person
 - (i) purchased the tangible personal property at a sale in British Columbia, or
 - (ii) brought or sent into, or received delivery of, in British Columbia the tangible personal property, and
 - (b) the tangible personal property is incorporated into property that could be the subject matter of a taxable sale or taxable self-supply.
- (3) This section does not apply to a person if the person sells the tangible personal property to another person before that tangible personal property is incorporated into property that could be the subject matter of a taxable sale or taxable self-supply.
- (4) A person to whom this section applies must pay to the government tax on the tangible personal property at the applicable rate under section 34.
- (5) The amount of tax payable under subsection (4) by a person in relation to tangible personal property is reduced by the following:
- (a) the amount of tax under sections 37, 49, 55, 80, 80.3, 80.5 and 80.6 previously paid by the person in relation to the tangible personal property and for which the person has not obtained or is not entitled to obtain a refund under this Act;
 - (b) the amount of tax under the *Social Service Tax Act* previously paid by the person in relation to the tangible personal property and for which the person has not obtained or is not entitled to obtain a refund under that Act;
 - (c) the amount of 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 British Columbia as a participating province under Part IX of that Act, previously paid by the person in relation to the tangible personal property and for which the person has not obtained or is not entitled to obtain a refund, credit or rebate under Part IX of that Act.
- (6) Tax payable under subsection (4) must be paid on or before the last day of the month after the month in which the tangible personal property is incorporated into the property referred to in subsection (2).
- (7) Despite subsection (6), tax payable under subsection (4) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Transitional tax on mobile homes affixed to land situated in British Columbia

- 80.8** (1) In this section, “**mobile home**” has the same meaning as in Part IX of the *Excise Tax Act*.
- (2) This section applies to a person in relation to a mobile home if,

- (a) before April 1, 2013, the person acquired or manufactured a mobile home, and
 - (b) on or after April 1, 2013, the mobile home is, by or on behalf of the person, affixed to land situated in British Columbia for the purpose of use and enjoyment of the mobile home as a place of residence for an individual within the meaning of Part IX of the *Excise Tax Act*.
- (3) A person to whom this section applies must pay to the government tax on the mobile home at the rate of 7% of the amount equal to 50% of the purchase price of the mobile home.
- (4) The amount of tax payable under subsection (3) by a person in relation to a mobile home is reduced by the following:
- (a) the amount of tax under sections 37, 49, or 55, 80, 80.5 and 80.6 previously paid by the person in relation to the mobile home and for which the person has not obtained or is not entitled to obtain a refund under this Act;
 - (b) the amount of tax under the *Social Service Tax Act* previously paid by the person in relation to the mobile home and for which the person has not obtained or is not entitled to obtain a refund under that Act;
 - (c) the amount of 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 British Columbia as a participating province under Part IX of that Act, previously paid by the person in relation to the mobile home and for which the person has not obtained or is not entitled to obtain a refund, credit or rebate under Part IX of that Act.
- (5) Tax payable under subsection (3) must be paid on or before the last day of the month after the month in which the mobile home is affixed to land as referred to in subsection (2) (b).
- (6) Despite subsection (5), tax payable under subsection (3) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Division 9 — Change in Use

Tax if change in use of property acquired for resale

- 81** (1) If a person purchased in British Columbia, brought or sent into British Columbia, or received delivery of in British Columbia, tangible personal property for resale and becomes, for any period, a user of that property, the person must pay to the government tax on the purchase price of that property at the applicable rate under section 34.
- (1.1) Subsection (1) does not apply to a person if, when the person becomes a user of the tangible personal property, the tangible personal property is used for a purpose for which the tangible personal property would have been exempt from tax under this Act if the property was to be used for that purpose when the person purchased in British Columbia, brought or sent into British Columbia, or received delivery of in British Columbia that tangible personal property.
- (2) Subsection (1) does not apply to a person in respect of a conveyance if section 64 [*tax if change in use of conveyance acquired for resale*] applies to the person in respect of the conveyance.
- (3) Tax payable under subsection (1) must be paid on or before the last day of the month after the month in which the person first becomes a user of the tangible personal property.

- (4) Despite subsection (3), tax payable under subsection (1) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Tax if property used for new purpose

- 82** (1) Subject to section 87 [*tax if recording exhibited*], if a person
- (a) purchased in British Columbia, brought or sent into British Columbia, or received delivery of in British Columbia, tangible personal property that was exempt from tax under this Act because the property was to be used for a particular purpose, and
 - (b) subsequently uses that property, or allows that property to be used, for a purpose other than
 - (i) the particular purpose or
 - (ii) another purpose for which that property would have been exempt from tax under this Act if that property was to be used for that purpose,
- the person must pay to the government tax on the purchase price of that property at the applicable rate under section 34.
- (2) Subsection (1) does not apply to a person who in relation to tangible personal property that was exempt from tax under section 142 (1), (2) or (2.1) [*exemptions for purchases or leases of tangible personal property intended for lease*] if
- (a) the only subsequent use of that property, other than leasing it, is occasionally, under an agreement, supplying the property with a person to operate it, and
 - (b) the tangible personal property is capitalized as lease inventory in the person's business accounting records.
- (3) Tax payable under subsection (1) must be paid on or before the last day of the month after the month in which the person first uses that property, or allows that property to be used, as referred to in subsection (1) (b).
- (4) Despite subsection (3), tax payable under subsection (1) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Tax on parts if property containing parts used for new purpose

- 82.1** (1) This section applies to a person in relation to tangible personal property that is a part if
- (a) the person purchased in British Columbia, brought or sent into British Columbia, or received delivery of in British Columbia, the part exempt under a prescribed section of the regulations from tax under this Act because the part is to be with tangible personal property that was exempt from tax under this Act because the tangible personal property was to be used for a particular purpose,
 - (b) the person subsequently uses that tangible personal property, or allows that tangible personal property to be used, for a purpose other than
 - (i) the particular purpose, or
 - (ii) another purpose for which the part would have been exempt from tax under this Act if that tangible personal property was to be used for that purpose.
- (2) A person to whom this section applies must pay to the government tax on the purchase price of the part at the applicable rate under section 34.

- (3) Tax payable under subsection (2) must be paid on or before the last day of the month after the month in which the person first uses that property, or allows that property to be used, as referred to in subsection (1) (b).
- (4) Despite subsection (3), tax payable under subsection (2) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Tax if conditions for exemption not maintained for specified period

- 82.2** (1) This section applies to a person in relation to tangible personal property if
- (a) the person purchased in British Columbia, brought or sent into British Columbia, or received delivery of in British Columbia tangible personal property that was exempt under a prescribed section of the regulations from tax under this Act,
 - (b) the prescribed section of the regulations requires specified conditions to be maintained for a specified period, and
 - (c) those conditions are not maintained for that period.
- (2) A person to whom this section applies must pay to the government tax on the purchase price of the tangible personal property at the applicable rate under section 34.
 - (3) Tax payable under subsection (2) must be paid on or before the last day of the month after the month in which the conditions referred to in subsection (1) are not fulfilled.
 - (4) Despite subsection (3), tax payable under subsection (2) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Tax if change in use of property acquired for lease

- 83** (1) If a person
- (a) purchased in British Columbia, brought or sent into British Columbia, or received delivery of in British Columbia, tangible personal property that was exempt from tax under section 142 (4) or (5) [*exemptions for purchases or leases of tangible personal property intended for lease*], and
 - (b) subsequently ceases to capitalize that property as lease inventory in the person's business accounting records,
- the person must pay to the government tax on the purchase price of that property at the applicable rate under section 34.
- (2) Tax payable under subsection (1) must be paid on or before the last day of the month after the month in which the person first ceases to capitalize that property as lease inventory in the person's business accounting records.
 - (3) Despite subsection (2), tax payable under subsection (1) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Tax if change in use of resulting tangible personal property

- 84** (1) If a person
- (a) purchased in British Columbia, brought or sent into British Columbia, or received delivery of in British Columbia, tangible personal property that was exempt from tax under section 141 (1) (a) or (b), and

- (b) becomes, for any period, a user of the tangible personal property to which the tangible personal property referred to in paragraph (a) of this subsection is processed, fabricated or manufactured into, attached to or incorporated into,
- the person must pay to the government tax on the purchase price of the tangible personal property referred to in paragraph (a) at the applicable rate under section 34.
- (2) Tax payable under subsection (1) must be paid on or before the last day of the month after the month in which the person first becomes a user of the tangible personal property first mentioned in subsection (1) (b).
- (3) Despite subsection (2), tax payable under subsection (1) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Tax if dealer or manufacturer change use of motor vehicle

84.1 (1) In this section:

- “**dealer**” means a person who is registered as a motor dealer under the *Motor Dealer Act*;
“**manufacturer**” means a person who makes motor vehicles but does not include a dealer.

- (2) If a dealer purchased in British Columbia, brings or sends into British Columbia, or receives delivery of in British Columbia a prescribed motor vehicle for resale or for leasing the motor vehicle to other persons and, uses that motor vehicle for a prescribed use, the dealer must pay to the government tax calculated in accordance with the regulations.
- (3) If a dealer or manufacturer in a month uses for a prescribed use a prescribed motor vehicle to which tangible personal property exempt from tax under section 141 (1) (a) has been processed, fabricated or manufactured into, attached to or incorporated into, the dealer or manufacturer must pay to the government tax calculated in accordance with the regulations.
- (5) Tax payable under subsection (1) or (2) must be paid at the prescribed time and in the prescribed manner.
- (6) A dealer who must pay tax under subsection (2) is exempt from tax imposed under section 81 or 82 in relation to the use of the motor vehicle that is subject to tax under this section.
- (7) A dealer or manufacturer who must pay tax under subsection (3) is exempt from tax imposed under section 84 in relation to the use of the motor vehicle that is subject to tax under this section.

Tax if change in use of prototype

85 (1) If a person

- (a) purchased in British Columbia, brought or sent into British Columbia, or received delivery of in British Columbia, tangible personal property that was exempt from tax under section 141 (1) (d) or (e), and
- (b) for any period after the testing of the prototype or copy of the prototype referred to under section 141 (1) (d) or (e),
- (i) becomes the user of that prototype or copy of that prototype, or
- (ii) becomes entitled to receive consideration for use of that prototype or copy of that prototype,

the person must pay to the government tax on the purchase price of that tangible personal property at the applicable rate under section 34.

- (2) Subsection (1) does not apply if the only use of the prototype or copy of the prototype is for demonstration and the only consideration received for the use of that prototype or copy of that prototype does not exceed the actual cost of that demonstration.
- (3) Tax payable under subsection (1) must be paid on or before the last day of the month after the month in which the earliest of the following occurs:
 - (a) the person first becomes a user of the prototype or copy of the prototype;
 - (b) the consideration for use of the prototype or copy of the prototype is paid;
 - (c) the consideration for use of the prototype or copy of the prototype becomes due.
- (4) Despite subsection (3), tax payable under subsection (1) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Tax if change in use of property for which refund received under taxation agreement

- 86** (1) If a person
- (a) received a refund of tax under section 155 [*refund in accordance with Nisga'a Nation Taxation Agreement*] or 156 [*refund in accordance with treaty first nation tax treatment agreement*] in relation to tangible personal property, and
 - (b) subsequently uses that property, or allows that property to be used, for a purpose other than that which would entitle the person to receive a refund of tax under section 155 or 156,

the person must pay to the government tax on the purchase price or lease price, as the case may be, at the applicable rate under section 34 [*rates of tax in relation to purchase price*] or 35 [*rates of tax in relation to lease price*].

- (2) Tax payable under subsection (1) must be paid on or before the last day of the month after the month in which the person first uses that property, or allows that property to be used, as referred to in subsection (1) (b).

Tax if recording exhibited

- 87** (1) A person
- (a) who, under section 143 (b) (ii), purchased, exempt from tax, tangible personal property that is a recording of a motion picture, and
 - (b) who exhibits the motion picture in a movie theatre or other public venue

must pay to the government tax in an amount equal to the amount of tax under this Act that would have otherwise been payable if the person had purchased the right or authority to exhibit the motion picture from a willing lessor acting in good faith in an arm's length transaction in the open market.

- (2) Tax payable under subsection (1) must be paid on or before the last day of the month after the month in which the motion picture is exhibited.
- (3) Despite subsection (2), tax payable under subsection (1) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Tax if leased tangible personal property becomes part of real property

- 88** (1) If, during the term of a lease of tangible personal property, the tangible personal property is used so that it ceases to be personal property at common law, then
- (a) the tangible personal property is deemed to be sold at a retail sale immediately before the tangible personal property ceases to be personal property,
 - (b) the person leasing the tangible personal property to the lessee is deemed to be the seller of the tangible personal property,
 - (c) the lessee must pay tax imposed under section 37 as if the lessee were a purchaser of that tangible personal property, and
 - (d) the purchase price of the tangible personal property is deemed to be the fair market value of the tangible personal property at the time of the sale.
- (2) If a sale is deemed to have occurred under subsection (1) (a), the deemed purchaser may not claim an exemption under section 142 (1), (2) or (2.1).

Division 10 — Tangible Personal Property Acquired by Small Seller

Tax on acquisition of eligible tangible personal property

- 89** (1) A small seller who purchases, at a sale in British Columbia, eligible tangible personal property for resale must pay tax imposed under section 37 [*tax on purchase*] on the purchase of the eligible tangible personal property as if the small seller were a purchaser of that eligible tangible personal property.
- (2) Tangible personal property referred to in sections 141 (1) (a), (b) and (c) [*exemptions in relation to industry and commerce*] and 143 [*exemption in relation to recording of motion picture or audio production*] and in prescribed sections of the regulations is not exempt from tax imposed under this Part when that tangible personal property is purchased by a small seller who must pay tax in accordance with subsection (1) of this section.

Tax on eligible tangible personal property brought into British Columbia

- 90** (1) Subject to subsection (2), this section applies to a small seller who
- (a) brings or sends into British Columbia, or receives delivery of in British Columbia, eligible tangible personal property for resale, and
 - (b) does not pay tax under section 55 in relation to the eligible tangible personal property.
- (2) This section does not apply to a person in relation to eligible tangible personal property if the person is required to pay tax or is exempt from tax under section 89 in relation to the eligible tangible personal property.
- (3) A small seller to whom this section applies must pay tax imposed under section 49 on the eligible tangible personal property as if the small seller were a person to whom section 49 applies in relation to that eligible tangible personal property.
- (4) Tangible personal property referred to in section 141 (1) (a), (b) and (c) [*exemption in relation to industry and commerce*] and in prescribed sections of the regulations is not exempt from tax imposed under this Part when that tangible personal property is brought or sent into British Columbia by, or delivered in British Columbia to, a small seller who must pay tax in accordance with subsection (3) of this section.

Exemption in relation to eligible tangible personal property purchased from small seller

- 91** If a purchaser purchases eligible tangible personal property from a small seller, the purchaser is exempt from tax imposed under section 37 [*tax on purchase*] on that purchase.

Division 11 — Energy Products

Tax on purchase of energy product

- 92** (1) A purchaser who purchases an energy product at a sale in British Columbia must pay to the government, for the raising of revenue for the purposes of the Innovative Clean Energy Fund special account established by the *Special Accounts Appropriation and Control Act*, tax at the rate of 0.4% of the purchase price of the energy product.
- (2) If a collector sells an energy product at a sale in British Columbia to a person who alleges that the energy product is being purchased for resale, the person must nevertheless pay tax under subsection (1) as if the person were a purchaser and the collector must nevertheless levy and collect the tax under subsection (1) unless the collector obtains, at or before the time the tax is payable,
- (a) that person's registration number, or
 - (b) a declaration in a form acceptable to the director from that person.

Tax if energy product brought into British Columbia for use

- 93** (1) Subject to subsection (2), this section applies to a person in relation to an energy product if
- (a) the person is a BC resident who brings or sends into British Columbia, or receives delivery of in British Columbia, an energy product for use or consumption
 - (i) by the BC resident,
 - (ii) by another person at the BC resident's expense,
 - (iii) by a principal for whom the BC resident acts as agent, or
 - (iv) by another person at the expense of a principal for whom the BC resident acts as agent,
 - (b) the person is a BC resident and a person who is not a BC resident brings or sends into British Columbia, or receives delivery of in British Columbia, an energy product for use or consumption
 - (i) by the BC resident, or
 - (ii) by the person who is not a BC resident, or by another person, at the BC resident's expense, or
 - (c) the person
 - (i) brings or sends into British Columbia, or receives delivery of in British Columbia, an energy product, and
 - (ii) uses the energy product in British Columbia in the course of the person's business, whether or not the business is carried on in British Columbia.
- (2) This section does not apply to a person in relation to an energy product if the person is required to pay tax or is exempt from tax under section 92 in relation to the energy product.

- (3) A person to whom this section applies must pay to the government, for the raising of revenue for the purposes of the Innovative Clean Energy Fund special account established by the *Special Accounts Appropriation and Control Act*, tax at the rate of 0.4% of the purchase price of the energy product.
- (4) If a collector causes an energy product to be delivered in British Columbia to a person who alleges that the energy product is being purchased for resale, the person must nevertheless pay tax under subsection (3) as if the person were a person to whom this section applies and the collector must nevertheless levy and collect the tax under subsection (3) unless the collector obtains, at or before the time the tax is payable,
 - (a) that person's registration number, or
 - (b) a declaration in a form acceptable to the director from that person.

Tax under this Division is additional tax

- 94** Tax imposed under this Division is in addition to any other tax payable under this Part in respect of the energy product.

Exemptions in relation to energy products

- 95** (1) The following are exempt from tax imposed under this Division:
- (a) fuel within the meaning of the *Motor Fuel Tax Act*, other than propane included within the meaning of energy product;
 - (b) natural gas purchased for use in a stationary internal combustion engine that compresses natural gas;
 - (c) natural gas brought or sent into British Columbia, or for which delivery is received in British Columbia, for use in a stationary internal combustion engine that compresses natural gas.
- (2) A person is exempt from paying further tax under this Division in the period beginning on April 1 in one year and ending on March 31 in the next year if
- (a) the person has already paid in that period at least \$100 000 in tax payable under this Division,
 - (b) the person provides evidence satisfactory to the director that the person has paid at least \$100 000 in accordance with paragraph (a), and
 - (c) the person receives written confirmation from the director that the person has paid at least \$100 000 in accordance with paragraph (a).
- (3) If a collector sells an energy product to a person who alleges that the person is exempt under subsection (2) from paying further tax under this Division, the collector must nevertheless levy and collect the tax under this Division unless the collector obtains from that person, at or before the time the tax is payable, a copy of the written confirmation referred to in subsection (2) (c).

Refund of excess if maximum tax paid

- 96** If the director is satisfied that a person has paid more than the \$100 000 in tax payable under this Division in the period described in section 95 (2), the director must refund that excess to the person.

Reporting requirements in relation to energy products

- 97** If requested by the director or if required under the regulations, a collector must report to the director the amounts of tax under this Division that were required to be collected in relation to the collector's sales of the energy product.

Division 12 — Other Taxes in Relation to Tangible Personal Property

Liquor sold under special occasion licence

- 98**
- (1) If liquor is acquired for sale under a special occasion licence, the holder of that licence or the agent of the holder must pay tax imposed under section 37 on the acquisition of the liquor as if the holder of that licence or the agent of the holder were a purchaser of that liquor.
 - (2) If liquor is or is to be acquired for sale under a special occasion licence, the holder of that licence or the agent of the holder must, at the time the licence is issued,
 - (a) declare to the person issuing the licence the amount of the total proceeds expected from the sale of the liquor at the special occasion, and
 - (b) pay to the person issuing the licence an amount equal to the tax under section 37 that would be collectable under this Act based on the expected proceeds of the sales less the amount of tax payable in accordance with subsection (1) of this section.
 - (3) If the amount of tax payable under section 37 that is collectable by the holder of the licence exceeds the total of the amount paid by the holder of the licence under subsections (1) and (2) (b) of this section, the holder must
 - (a) remit to the government an amount equal to the amount of the excess, and
 - (b) file with the director a return at the time, in the manner and in a form specified by the director.
 - (4) An amount to be remitted under subsection (3) must be remitted to the government on or before the last day of the month after the month in which the special occasion licence expires.
 - (5) If the director is satisfied that the amount of tax under section 37 collectable by the holder of the special occasion licence on the actual sale of the liquor in respect of which payment was made under subsection (2) of this section is less than the amount paid under subsections (1) and (2), the director must refund to the holder an amount that
 - (a) subject to paragraph (b), is equal to the amount of the difference less the amount of tax under subsection (1) for which the holder has obtained or is entitled to obtain a refund for returning liquor acquired for sale under the special occasion licence, and
 - (b) does not exceed the amount paid under subsection (2).

Tax on acquisition of exclusive product by independent sales contractor

- 99** (1) An independent sales contractor who purchases an exclusive product at a sale in British Columbia from a direct seller must pay to the government tax at the rate of 7% of the direct seller's suggested retail price for the exclusive product.

- (2) An independent sales contractor of a direct seller who purchases an exclusive product at a sale in British Columbia from another independent sales contractor of the direct seller must pay to the government tax at the rate of 7% of the direct seller's suggested retail price.
- (3) An independent sales contractor who brings or sends into British Columbia, or receives delivery of in British Columbia, an exclusive product acquired from a direct seller must pay to the government tax at the rate of 7% of the direct seller's suggested retail price for the exclusive product.
- (4) An independent sales contractor of a direct seller who brings or sends into British Columbia, or receives delivery of in British Columbia, an exclusive product acquired from another independent sales contractor of the direct seller must pay to the government, by paying to the direct seller as agent of the government, tax at the rate of 7% of the direct seller's suggested retail price for the exclusive product.
- (5) Subsection (3) or (4) does not apply to an independent sales contractor in relation to an exclusive product if
 - (a) the independent sales contractor must pay tax imposed under subsection (1) or (2) in relation to that exclusive product, or
 - (b) the independent sales contractor must pay tax imposed under Division 5 [*Property Brought into British Columbia from Outside Canada*] in relation to that exclusive product.
- (6) Tangible personal property referred to in section 141 (1) (a), (b) and (c) and in prescribed sections of the regulations is not exempt from tax imposed under this section when acquired by an independent sales contractor who must pay tax in accordance with this section.
- (7) Tax payable under subsection (4) must be paid on or before the last day of the month after the month that includes the entry date of the exclusive product.

Tax on gift of vehicle, boat or aircraft given in British Columbia

- 100** (0.1) In this section, “charity” and “registrant” have the same meaning as in Part IX of the *Excise Tax Act*.
- (1) If a person receives a gift of a vehicle, boat or aircraft and the gift is received in British Columbia, subject to subsections (2) and (3), the person must pay to the government tax at the applicable rate under subsection (4), (6) or (7).
 - (2) A person is not required to pay tax under this section in respect of a vehicle, boat or aircraft if the person has paid tax in respect of the vehicle, boat or aircraft under section 49.
 - (3) This section does not apply in relation to a vehicle, boat or aircraft that is subject to tax or exempt from tax under Division 6 [*Conveyances Used Interjurisdictionally*] or 7 [*Multijurisdictional Vehicles*].
 - (4) Subject to subsections (6) and (7), the rate of tax payable under subsection (1) on a vehicle, boat or aircraft is 12% of the fair market value of the vehicle, boat or aircraft on the date the vehicle, boat or aircraft is received as a gift.
 - (5) Subsections (6) and (7) apply if any of the following apply in relation to the gift:
 - (a) the provision of the gift is a taxable supply under Part IX of the *Excise Tax Act* by a registrant;

- (b) the provision of the gift is an exempt supply under Part IX of the *Excise Tax Act* by a registrant that is a charity;
 - (c) the donor who gave the gift acquired the vehicle, boat or aircraft in prescribed circumstances.
- (6) Subject to subsection (7), the rate of tax payable under subsection (1) on a vehicle, boat or aircraft is 7% of the fair market value of the vehicle, boat or aircraft on the date the vehicle, boat or aircraft is received as a gift.
- (7) The rate of tax payable under subsection (1) on a passenger vehicle is as follows:
- (a) 7% of the fair market value of the passenger vehicle on the date the passenger vehicle is received as a gift, if the fair market value is less than \$55 000;
 - (b) 8% of the fair market value of the passenger vehicle on the date the passenger vehicle is received as a gift, if the fair market value is \$55 000 or more but less than \$56 000;
 - (c) 9% of the fair market value of the passenger vehicle on the date the passenger vehicle is received as a gift, if the fair market value is \$56 000 or more but less than \$57 000;
 - (d) 10% of the fair market value of the passenger vehicle on the date the passenger vehicle is received as a gift, if the fair market value is \$57 000 or more.

Tax on reusable containers

- 101**
- (1) Subject to subsection (3), a person who purchases a reusable container at a sale in British Columbia must pay to the government tax at the rate of 7% of the purchase price of the reusable container.
 - (2) Subject to subsections (3) and (4), a person who brings or sends into British Columbia, or receives delivery of in British Columbia, a reusable container must pay to the government tax at the rate of 7% of the purchase price of the reusable container.
 - (3) Subsection (1) or (2) applies to a person in relation to the reusable container if the person intends to sell a product that is packaged or delivered in or on the reusable container and
 - (a) the reusable container is subject to a deposit, credit, penalty or replacement charge to encourage its return for reuse as a container,
 - (b) the person retains an interest in the reusable container after the sale of the product,
 - (c) the reusable container, or a similar reusable container, is required to be returned to the person after the sale of the product, or
 - (d) the product is sold in a jurisdiction where the reusable container is subject to a regulatory or contractual scheme to recover the container for reuse by the person or by other participants in the scheme.
 - (4) Subsection (2) does not apply to a person in relation to a reusable container if the person is required to pay tax or is exempt from tax under subsection (1) in relation to that reusable container.

Tax on leased property occasionally supplied with operator

- 102**
- (1) A person, other than a person who has paid tax under section 82 [*tax if property used for new purpose*] or 83 [*tax if change in use of property acquired for lease*], who purchases tangible personal property exempt from tax under section 142 (4), or who brings or sends into British Columbia, or receives delivery of in British Columbia, tangible personal property exempt from tax under section 142 (5), must, when the property is, under an

agreement, supplied with a person to operate it, pay to the government tax at the applicable rate under section 35 [*rates of tax in relation to lease price*] as if the price at which that property would have been leased had it been leased without supplying a person to operate it were the lease price of the tangible personal property.

(2) If

- (a) a person, other than a person who has paid tax under section 82 or 83, purchases in British Columbia, brings or sends into British Columbia or receives delivery of in British Columbia tangible personal property exempt from tax under section 142 (1), (2) or (2.1),
- (b) the only subsequent use of that tangible personal property, other than leasing it, is occasionally, under an agreement, supplying the property with a person to operate it, and
- (c) the tangible personal property is capitalized as lease inventory in the person's business accounting records,

the person must, when the property is, under an agreement, supplied with a person to operate it, pay to the government tax at the applicable rate under section 35 as if the price at which that property would have been leased had it been leased without supplying a person to operate it were the lease price of the tangible personal property.

- (3) Tax payable under subsection (1) or (2) must be paid at the prescribed time and in the prescribed manner.

Tax on subsequent purchase or lease after refund

103

- (1) In this section, “**related individual**” includes a sibling.
- (2) If a refund to a purchaser is made under this Act in respect of tangible personal property that is returned or resold to the collector who sold it to the purchaser and that tangible personal property is subsequently purchased or leased by
 - (a) the purchaser,
 - (b) a related individual of the purchaser, or
 - (c) an associated corporation of the purchaser,the person referred to in paragraph (a), (b) or (c), as the case may be, must pay to the government, in lieu of the tax payable, if any, under Division 2 or 3 of this Part in respect of that tangible personal property, tax equal to the tax that was refunded to the purchaser.
- (3) For the purposes of applying the other provisions of this Act in relation to a tax imposed under subsection (2),
 - (a) the tax is deemed to be a tax imposed under section 37,
 - (b) if the tangible personal property is leased, the time of entering into the lease is deemed to be the time of purchase,
 - (c) section 34 and Part 6 do not apply, and
 - (d) prescribed sections of the regulations do not apply.

PART 4 — TAXES IN RELATION TO SOFTWARE

Application of this Part

- 104** This Part does not apply in relation to software that is subject to tax or is exempt from tax under Part 3 [*Taxes in Relation to Tangible Personal Property*].

Tax on software

- 105**
- (1) A purchaser in British Columbia who purchases software for use on or with an electronic device ordinarily situated in British Columbia must pay to the government tax at the rate of 7% of the purchase price of the software.
 - (2) Subsection (1) does not apply to a purchaser who must pay tax imposed under section 107 or 112 in respect of the software.
 - (3) If a collector sells software at a sale in British Columbia to a person who alleges that the person must pay tax under section 107 in relation to the software in accordance with section 107 (1) (b) (i), the collector must nevertheless levy and collect the tax under subsection (1) of this section unless the collector obtains from that person, at or before the time the tax is payable, a declaration in a form acceptable to the director.

Tax on use of software on device in British Columbia

- 106**
- (1) Subject to subsection (2), this section applies to a purchaser of software if
 - (a) the purchaser is a BC resident and the software is used, on or with an electronic device ordinarily situated in British Columbia,
 - (i) by the BC resident,
 - (ii) by another person at the BC resident's expense,
 - (iii) by a principal for whom the BC resident acts as agent, or
 - (iv) by another person at the expense of a principal for whom the BC resident acts as agent, or
 - (b) the purchaser is a non-resident and the software is used, on or with an electronic device ordinarily situated in British Columbia,
 - (i) by the non-resident,
 - (ii) by another person at the non-resident's expense,
 - (iii) by a principal for whom the non-resident acts as agent, or
 - (iv) by another person at the expense of a principal for whom the non-resident acts as agent.
 - (2) This section does not apply to a purchaser in relation to software if the purchaser must pay tax imposed under section 105, 107 or 112 in relation to the software.
 - (3) A purchaser to whom this section applies must pay to the government tax at the rate of 7% of the purchase price of the software.
 - (4) Tax payable under subsection (3) must be paid on or before the last day of the month after the month in which the software is used as referred to in subsection (1) (a) or (b).
 - (5) Despite subsection (4), tax payable under subsection (3) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Tax on business use of software on devices in and outside British Columbia

- 107** (1) Subject to subsection (1.1), this section applies to a purchaser of software if
- (a) the purchaser
 - (i) carries on business in British Columbia, or
 - (ii) enters British Columbia with the intention of carrying on business in British Columbia, and
 - (b) the purchaser
 - (i) is in British Columbia when the purchaser purchases the software and purchases the software for use, in the course of the purchaser's business, on or with an electronic device ordinarily situated in British Columbia and on or with an electronic device ordinarily situated outside British Columbia, or
 - (ii) in the course of the purchaser's business, uses the software or allows the software to be used on or with an electronic device ordinarily situated in British Columbia and on or with an electronic device ordinarily situated outside British Columbia.
 - (c) [Repealed]

(1.1) This section does not apply to a purchaser who must pay tax imposed under section 112 in respect of the software.

- (2) A purchaser to whom this section applies must pay to the government tax on the software in the amount determined by the following formula:

$$\text{amount} = 7\% \times \text{purchase price} \times \frac{\text{BC usage}}{\text{total usage}}$$

Where

purchase price = the purchase price of the software;

BC usage = the estimated use of the software in British Columbia, as determined in accordance with the regulations, during the prescribed period;

total usage = the estimated total use of the software during the prescribed period.

- (3) Tax payable under subsection (2) must be paid,
- (a) if subsection (1) (b) (i) applies to the purchaser in relation to the software, on or before the last day of the month after the month in which the software is purchased, and
 - (b) if subsection (1) (b) (ii) applies to the purchaser in relation to the software, on or before the last day of the month after the month in which the purchaser first uses that software or allows that software to be used as referred to in that subsection.
- (4) Despite subsection (3), tax payable under subsection (2) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Adjustment of tax under section 107

108 (1) In this section:

“**BC usage period**” means the period prescribed for the purposes of the description of “BC usage” in section 107 (2);

“**total usage period**” means the period prescribed for the purposes of the description of “total usage” in section 107 (2).

- (2) At the end of the BC usage period, a purchaser to whom section 107 applies must determine the following:
- (a) the use in British Columbia of the software, as determined in accordance with the regulations, during the BC usage period;
 - (b) the total use of the software during the total usage period;
 - (c) the amount determined by the formula in section 107 (2) using the use and total use determined under paragraphs (a) and (b) of this subsection instead of the estimated use under section 107.
- (3) If the amount determined under subsection (2) (c) exceeds the amount determined under section 107 (2), the purchaser who is required to pay tax imposed under section 107 in respect of the software for the BC usage period must pay to the government tax equal to the amount of the excess.
- (4) Tax payable under subsection (3) must be paid on or before the last day of the month after the month in which the BC usage ends.
- (4.1) Despite subsection (4), tax payable under subsection (3) by a registrant must be paid at or before the prescribed time and in the prescribed manner.
- (5) If the director is satisfied that the amount determined under section 107 (2) based on an estimate exceeds the amount determined under subsection (2) (c) of this section, the director must refund to the purchaser who paid tax under section 107 the amount of the excess.

Tax if use of software changes

109 (1) If a person

- (a) purchased, in or outside British Columbia, software that is exempt from tax under this Act because the software was to be used for a particular purpose, and
- (b) subsequently uses that software, or allows that software to be used, for a purpose other than
 - (i) the particular purpose, or
 - (ii) another purpose for which the software would have been exempt from tax under this Act if the software was to be used for that purpose,

the person must pay to the government tax in accordance with whichever of section 105, 106 or 107 would have applied to the person but for the exemption.

- (2) Tax payable under subsection (1) must be paid on or before the last day of the month after the month in which the person first uses the software, or allows the software to be used, as referred to in subsection (1) (b).

- (3) Despite subsection (2), tax payable under subsection (1) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Tax if change in use of resulting software or tangible personal property

- 110** (1) If a person
- (a) purchased, in or outside British Columbia, software exempt from tax under section 113 (1) (a), and
 - (b) becomes, for any period, a user of the software or tangible personal property to which the software referred to in paragraph (a) of this subsection is processed, fabricated or manufactured into, attached to or incorporated into,
- the person must pay to the government tax at the rate of 7% of the purchase price of the software.
- (2) Tax payable under subsection (1) must be paid on or before the last day of the month after the month in which the person first becomes
 - (a) a user of the software first mentioned in subsection (1) (b), or
 - (b) a user of the tangible personal property referred to in subsection (1) (b).
 - (3) Despite subsection (2), tax payable under subsection (1) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Tax if change in use of software for which refund received under taxation agreement

- 111** (1) If a person
- (a) received a refund of tax under section 155 [*refund in accordance with Nisga'a Nation Taxation Agreement*] or 156 [*refund in accordance with treaty first nation tax treatment agreement*] in relation to software, and
 - (b) subsequently uses that software, or allows that software to be used, for a purpose other than that which would entitle the person to receive a refund of tax under section 155 or 156,
- the person must pay to the government tax on the purchase price of that software in accordance with whichever of section 105, 106 or 107 would have applied to the person but for the exemption.
- (2) Tax payable under subsection (1) must be paid on or before the last day of the month after the month in which the person first uses the software, or allows the software to be used, as referred to in subsection (1) (b).

Tax on purchase of software by small seller

- 112** (1) A small seller who purchases software for resale must pay to the government tax at the rate of 7% of the purchase price of the software.
- (2) Software referred to in section 113 (1) (a) and (c) and in prescribed sections of the regulations is not exempt from tax imposed under this Part when purchased by a small seller who must pay tax in accordance with subsection (1) of this section.
 - (3) The exemption set out in section 113 (2) does not apply to a small seller who must pay tax in accordance with subsection (1) of this section.

Exemptions in relation to software

- 113** (1) Subject to section 112 (2), the following are exempt from tax imposed under this Part:
- (a) subject to subsection (3) of this section, software that is purchased for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into
 - (i) other software for the purpose of retail sale, or
 - (ii) tangible personal property for the purpose of retail sale or lease;
 - (b) [Repealed]
 - (c) software purchased substantially for one or more of the following purposes:
 - (i) incorporating copies of the software into other software or tangible personal property for retail sale;
 - (ii) re-licensing copies of the software for retail sale;
 - (iii) a prescribed purpose,if
 - (iv) under the terms of the licence governing the use of the software, the software must be used substantially for one or more of the purposes referred to in subparagraphs (i) to (iii), or
 - (v) the purchaser of the software or tangible personal property has acquired all rights to the software, and the software is used substantially for one or more of the purposes referred to in subparagraphs (i) to (iii);
 - (d) software, other than prescribed software, that is purchased in or outside British Columbia for the purpose of being incorporated into a prototype, or copies of the prototype made for a prescribed purpose, if the prototype is a result of research and development activities aimed at developing a new or improved product or a new or improved process.
- (2) Subject to section 112 (3), a purchaser who purchases software is exempt from tax imposed under this Part on the purchase if that purchase is made for the sole purpose of selling to other persons the rights comprising that software.
- (3) The exemption under subsection (1) (a) does not apply if the purchaser of the software that is purchased for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into
- (a) other software for the purpose of retail sale is to retain an interest in the tangible personal property after the retail sale, or
 - (b) tangible personal property for the purpose of retail sale or lease is to retain an interest in the tangible personal property after the retail sale or lease.

Exemption in relation to software purchased from small seller

- 114** If a purchaser purchases software from a small seller, the purchaser is exempt from tax imposed under this Part on that purchase.

PART 5 — TAXES IN RELATION TO SERVICES

Division 1 — Services Related to Purchase

Definition

- 115** In this Division, “**associate**” includes an agent, partner, joint venturer, related individual and associated corporation.

Tax if contract for property conversion related to purchase

- 116** (1) In this section, “**contract amount**” means an amount payable under the contract referred to in subsection (2) (b) for or in relation to the resulting tangible personal property.
- (2) This section applies to a purchaser who
- (a) acquires tangible personal property
 - (i) from another person, or
 - (ii) through another person acting as agent of the purchaser, and
 - (b) within 180 days before or after acquiring the tangible personal property, enters into a contract with the other person or an associate of the person under which the original tangible personal property referred to in paragraph (a) is processed, fabricated or manufactured into, or attached to or incorporated into other tangible personal property by that other person or associate.
- (3) A purchaser to whom this section applies must pay to the government tax at the rate of 7% of the contract amount.
- (4) Tax payable under subsection (3) is in addition to tax payable on the original tangible personal property.
- (5) [Repealed]
- (6) Tax is not payable under this section on that portion of the contract amount on which tax is otherwise payable by the purchaser under this Act.

Tax if contract for modification of purchased property

- 117** (1) In this section:
- “**contract amount**” means an amount payable under the contract referred to in subsection (2) for or in relation to the modification or processing referred to in subsection (2) (b);
 - “**tax rate value**”,
 - (a) in relation to a passenger vehicle other than a modified business vehicle, means the total of the original purchase price of the passenger vehicle and the contract amount, and
 - (b) in relation to a modified business vehicle, means the total of the original purchase price of the modified business vehicle and the contract amount less the portion of that amount that can reasonably be attributed to the modifications referred to in paragraph (b) of the definition of “modified business vehicle”.
- (2) This section applies to a purchaser of tangible personal property if the purchaser enters into an agreement, with the seller of the property or an associate of the seller,
- (a) that is

- (i) part of the contract to acquire the tangible personal property, or
 - (ii) a separate contract entered into within 2 days before or after entering into the contract to acquire the tangible personal property, and
 - (b) under which the seller or an associate of the seller is to modify or process the tangible personal property.
- (3) A purchaser to whom this section applies must pay to the government tax calculated as follows:
- (a) if the tangible personal property referred to in subsection (2) is not a passenger vehicle, at the rate of 7% of the contract amount;
 - (b) if the tangible personal property referred to in subsection (2) is a passenger vehicle, at the applicable rate as follows:
 - (i) 7% of the contract amount, if the tax rate value is less than \$55 000;
 - (ii) 8% of the contract amount, if the tax rate value is \$55 000 or more but less than \$56 000;
 - (iii) 9% of the contract amount, if the tax rate value is \$56 000 or more but less than \$57 000;
 - (iv) 10% of the contract amount, if the tax rate value is \$57 000 or more.
- (4) Tax is not payable under this section on that portion of the contract amount on which tax is otherwise payable by the purchaser under this Act.

Tax if resulting property used for new purpose

- 117.1** (1) In this section, “**resulting tangible personal property**” means tangible personal property in its resulting form after completion of a contract referred to in section 116 or 117.
- (2) If a person
- (a) was exempt, under section 118, from tax imposed under section 116 or 117 because the resulting tangible personal property was to be used for a particular purpose, and
 - (b) subsequently uses that resulting tangible personal property, or allows that resulting tangible personal property to be used, for a purpose other than
 - (i) the particular purpose, or
 - (ii) another purpose for which the resulting tangible personal property would have been exempt from tax under section 116 or 117 if the property was to be used for that purpose,
- the person must pay to the government tax in an amount equal to the amount of tax that would, but for section 118, have been payable under section 116 or 117.
- (3) Tax payable under subsection (2) must be paid on or before the last day of the month after the month in which the person first uses the resulting tangible personal property, or allows that property to be used, as referred to in subsection (2) (b).
- (4) Despite subsection (3), tax payable under subsection (2) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Exempt property

- 118** A purchaser is exempt from tax imposed under section 116 or 117 if the tangible personal property in its resulting form after completion of the contract referred to in the applicable

section would be exempt from tax imposed under Part 3.

**Refund if contract for property conversion
not related to purchase**

- 118.1** If the director is satisfied that a purchaser paid tax under section 116 (3) and that, at the time the tangible personal property referred to in section 116 (2) (a) was acquired, the purchaser did not intend to enter into the contract referred to in section 116 (2) (b), the director must refund to the purchaser the amount of tax paid under section 116 (3) in respect of that contract.

Division 2 — Related Services in Relation to Tangible Personal Property

Tax on purchase of related service provided in British Columbia

- 119** (1) A purchaser of a related service provided or to be provided in British Columbia must pay to the government tax at the rate of 7% of the purchase price of the related service.
- (2) If a collector sells a related service provided or to be provided in British Columbia to a person who alleges that the person is exempt under section 121 (2) or under prescribed sections of the regulations from paying the tax under subsection (1) of this section, the collector must nevertheless levy and collect the tax under subsection (1) unless the collector obtains from that person, at or before the time the tax is payable,
- (a) a declaration in a form acceptable to the director, if required by the regulations,
 - (b) any information or document required by the regulations, and
 - (c) any information or document required by the director.

Tax if related service provided outside British Columbia

- 120** (1) This section applies to a person who
- (a) resides, ordinarily resides or carries on business in British Columbia,
 - (b) takes or sends tangible personal property out of British Columbia
 - (i) primarily for the purpose of having a related service provided in respect of the property, and
 - (ii) has the related service provided in respect of the property, and
 - (c) subsequently brings or sends into British Columbia, or receives delivery of in British Columbia, the tangible personal property referred to in paragraph (b) for use or consumption
 - (i) by the person,
 - (ii) by another person at the first person's expense,
 - (iii) by a principal for whom the first person acts as agent, or
 - (iv) by another person at the expense of a principal for whom the first person acts as agent.
- (2) A person to whom this section applies must pay to the government tax in respect of the related service at a rate of 7% of the purchase price of that related service.
- (3) Tax payable under subsection (2) must be paid on or before the last day of the month after the month in which the person subsequently brings or sends into British Columbia, or receives delivery of in British Columbia, the tangible personal property.

- (4) Despite subsection (3), tax payable under subsection (2) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Tax if change in use of related service

- 120.1** (1) If a person
- (a) purchased a related service that was exempt from tax under this Act because the related service was to be used for a particular purpose, and
 - (b) subsequently uses that related service, or allows that related service to be used, for a purpose other than,
 - (i) the particular purpose, or
 - (ii) another purpose for which the related service would have been exempt from tax under this Act if the related service was to be used for that purpose,
- the person must pay to the government tax at a rate of 7% of the purchase price of that related service.
- (2) Tax payable under subsection (1) must be paid on or before the last day of the month after the month in which the person subsequently uses that related service, or allows that related service to be used, as referred to in subsection (1) (b).
- (3) Despite subsection (2), tax payable under subsection (1) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Exemptions from tax under this Division

- 121** (1) A person who takes or sends tangible personal property out of British Columbia, primarily for the purpose of using the tangible personal property outside British Columbia for a period of time, is exempt from tax under section 120 in respect of any related service provided in respect of that tangible personal property while it is outside British Columbia during that period.
- (2) Subject to section 135 [*tax on acquisition of taxable service by small seller*], a purchaser who purchases a related service is exempt from tax imposed under this Division on the purchase if that purchase is made for the purpose only of selling the related service to other persons.

Division 3 — Accommodation

Tax on accommodation

- 122** A purchaser of accommodation in British Columbia must pay to the government tax at the rate of 8% of the purchase price of the accommodation.

Tax on accommodation in designated accommodation area

- 123** (1) If accommodation is purchased in a designated accommodation area, the purchaser must pay to the designated recipient, by paying to the government as agent of the designated recipient, tax at the prescribed rate on the purchase price of the accommodation.
- (2) The maximum rate of tax that may be imposed under this section is 2% of the purchase price of the accommodation.

- (3) Despite the *Financial Administration Act*, any taxes paid under subsection (1) and received by the government must be paid into the consolidated revenue fund.

Obligations to pay and collect tax on accommodation purchased for resale

- 123.1** If a collector sells accommodation at a sale in British Columbia to a person who alleges that the accommodation is being purchased for resale, the person must nevertheless pay tax under sections 122 and 123 as if the person were a purchaser and the collector must nevertheless levy and collect the tax under sections 122 and 123 unless the collector obtains, at or before the time the tax is payable,
- (a) that person's registration number, or
 - (b) a declaration in a form acceptable to the director from that person.

Tax if change in use of accommodation acquired for resale

- 123.2** (1) If a person purchased accommodation in British Columbia for resale and becomes, for any period, a user of that accommodation, the person must pay to the government tax at the rate of 8% of the purchase price of the accommodation.
- (2) Subject to subsection (4), subsection (3) applies to a person in respect of accommodation if
- (a) the person purchased accommodation in British Columbia for resale,
 - (b) the person becomes, for any period, a user of that accommodation, and
 - (c) at the time the person becomes the user of that accommodation, the accommodation is in a designated accommodation area.
- (3) A person to whom this subsection applies must pay to the designated recipient, by paying to the government as agent of the designated recipient, tax on the purchase price of the accommodation at the rate prescribed for the purposes of section 123 (1) to accommodation purchased in the designated accommodation area.
- (4) Subsections (1) and (3) do not apply to a person if, when the person becomes a user of the accommodation, the accommodation is used for a purpose for which the accommodation would have been exempt from tax under this Act if the accommodation was to be used for that purpose when the person purchased that accommodation.
- (5) Despite the *Financial Administration Act*, any taxes paid under subsection (3) and received by the government must be paid into the consolidated revenue fund.

Refund in relation to new designated accommodation area

- 124** (1) If the director is satisfied that
- (a) a purchaser purchased accommodation in a designated accommodation area,
 - (b) in relation to the purchase, the purchaser
 - (i) received a written confirmation of reservation,
 - (ii) entered into a written contract, or
 - (iii) made a deposit of money,
 - (c) the purchase is for a specified number of days of accommodation that are set out in the confirmation or contract or covered by the deposit, and

- (d) the confirmation, contract or deposit was received, entered into or made before the area became a designated accommodation area,
the director must refund to the purchaser the tax paid under section 123 in accordance with subsection (2) of this section.
- (2) The amount of the refund under subsection (1) is equal to the amount of tax paid under section 123 on the purchase price of the accommodation for each of the specified number of days.

Payment to designated recipient

- 125**
- (1) The director must pay from the consolidated revenue fund to the designated recipient amounts equivalent to the amount of tax imposed under sections 123 and 123.2 (3) in the designated accommodation area that is remitted to the government less any amount deducted under subsections (3) and (4) of this section.
 - (2) In relation to any money paid under subsection (1) to a designated recipient, the designated recipient
 - (a) must not spend the money for a purpose other than a prescribed purpose, and
 - (b) must account to the minister for its expenditure at the time and in the manner specified by the minister.
 - (3) The director may deduct from a payment under subsection (1) to a designated recipient a fee to recover the additional costs to the government of administering and enforcing the tax imposed under sections 123 and 123.2 (3).
 - (4) The director may deduct from a payment under subsection (1) to a designated recipient an amount equal to an amount of tax under sections 123 and 123.2 (3) that is paid or remitted to the government and is refunded by the director to a purchaser or collector.
 - (5) Section 27 (1) (a) [*regulation of expenditure*] of the *Financial Administration Act* does not apply to the appropriation under subsection (1) of this section.

Division 4 — Legal Services

Tax if legal services provided in British Columbia

- 126**
- (1) If the purchaser or recipient of legal services provided in British Columbia resides, ordinarily resides or carries on business in British Columbia, the purchaser must pay to the government tax on the provision of the legal services at the rate of 7% of the purchase price of the legal services.
 - (2) If neither the purchaser nor the recipient of legal services provided in British Columbia resides, ordinarily resides or carries on business in British Columbia, the purchaser must pay to the government tax on the provision of the legal services at the rate of 7% of the purchase price of the legal services if the legal services are in relation to one or more of the following:
 - (a) real property situated in British Columbia;
 - (b) tangible personal property, within the meaning of paragraph (a) of the definition of “tangible personal property”, that is, or that is contemplated to be,
 - (i) ordinarily situated in British Columbia, or
 - (ii) delivered in British Columbia;

- (c) property, other than that referred to in paragraphs (a) and (b), that is, or is contemplated to be, owned, possessed or used in British Columbia;
- (d) a right to use property referred to in paragraph (c) that is, or is contemplated to be, used in British Columbia;
- (e) a court or any other proceeding in British Columbia or a possible such proceeding;
- (f) the incorporation or contemplated incorporation of a corporation under the *Business Corporations Act* or the *Society Act*, or the registration or contemplated registration of a corporation as an extraprovincial company under the *Business Corporations Act* or as an extraprovincial society under the *Society Act*;
- (g) any other matter that relates to British Columbia and is prescribed for the purposes of this section.

Tax if legal services provided to British Columbia resident

127 (1) A person who

- (a) resides, ordinarily resides or carries on business in British Columbia, and
- (b) is the purchaser of legal services provided outside British Columbia that relate to British Columbia

must pay to the government tax in respect of the legal services at the rate of 7% of the purchase price of the legal services.

(2) For the purposes of subsection (1), legal services relate to British Columbia if they relate to any of the following:

- (a) a matter referred to in section 126 (2) (a) to (g);
- (b) a matter that involves the interpretation or application of an enactment as defined in the *Interpretation Act* or a former or proposed such enactment;
- (c) a matter that involves the interpretation or application of an enactment, or a former or proposed enactment, of a jurisdiction other than British Columbia, if the matter is in relation to
 - (i) a physical or legal presence in British Columbia or a contemplated such presence,
 - (ii) an activity in British Columbia or a contemplated such activity, or
 - (iii) a transaction in British Columbia or a contemplated such transaction;
- (d) a matter that involves the analysis or application of any law other than that referred to in paragraphs (b) and (c), if the matter is in relation to
 - (i) a physical or legal presence in British Columbia or a contemplated such presence,
 - (ii) an activity in British Columbia or a contemplated such activity, or
 - (iii) a transaction in British Columbia or a contemplated such transaction;
- (e) a contract or covenant, or a contemplated contract or covenant, that is in relation to
 - (i) a physical or legal presence in British Columbia or a contemplated such presence,
 - (ii) an activity in British Columbia or a contemplated such activity, or
 - (iii) a transaction in British Columbia or a contemplated such transaction.

- (3) A person referred to in subsection (1) is exempt from tax under that subsection in relation to that portion of the purchase price which is for legal services that relate to a jurisdiction other than British Columbia if
 - (a) the person resides, ordinarily resides or carries on business outside British Columbia as well as in British Columbia, and
 - (b) part of the legal services referred to in subsection (1) relates to a jurisdiction other than British Columbia in the same manner as legal services relate to British Columbia within the meaning of subsection (2).
- (4) For the purposes of subsection (3), the person referred to in that subsection must
 - (a) make a reasonable estimate, subject to the regulations, of that portion of the purchase price that relates to legal services referred to in subsection (3) (b),
 - (b) make and retain a record of the estimate and the basis on which it is made, and
 - (c) if a collector is required by this Act to collect the tax payable, provide a copy of the record to the collector.

Exemption in relation to legal aid

- 128** Legal services provided to an individual are exempt from tax under this Division
- (a) to the extent that the purchase price for the services is paid by the Legal Services Society, or by a funded agency within the meaning of the *Legal Services Society Act*, for the purposes of section 9 of that Act, and
 - (b) to the extent that the purchase price for the services is paid by the individual, if the purchase price of the services is paid partly by that individual and partly by the Legal Services Society, or by a funded agency within the meaning of the *Legal Services Society Act*, for the purposes of section 9 of that Act.

Deemed references if person providing legal services is partner or employee

- 129** If the person providing legal services does so as a partner in a partnership or as an employee of an individual, partnership or corporation, a reference in this Act to that person is deemed to be a reference to the individual, partnership or corporation.

Division 5 — Telecommunication Services

Tax on telecommunication service

- 130**
- (1) A purchaser of a telecommunication service must pay to the government tax on the provision of the telecommunication service at the rate of 7% of the purchase price of that telecommunication service.
 - (2) Subject to section 132, subsection (1) of this section does not apply to a purchaser of a dedicated telecommunication service if the purchaser must pay tax under section 131 in relation to the dedicated telecommunication service.
 - (3) If a collector sells a telecommunication service to a person who alleges that the person is exempt under section 134 or under prescribed sections of the regulations from paying the tax under subsection (1) of this section, the collector must nevertheless levy and collect the tax under subsection (1) unless the collector obtains from that person, at or before the time the tax is payable,
 - (a) a declaration in a form acceptable to the director, if required by the regulations,

- (b) any information or document required by the regulations, and
- (c) any information or document required by the director.

Tax on dedicated telecommunication service

- 131** (1) A purchaser of a dedicated telecommunication service provided in British Columbia must pay to the government tax calculated in accordance with subsection (2).
- (2) The tax payable under subsection (1) must be calculated in accordance with the following formula:

$$\text{amount} = 7\% \times \text{purchase price} \times \frac{\text{BC distance}}{\text{total distance}}$$

Where

- purchase price = the purchase price of the dedicated telecommunication service;
- BC distance = the portion of the distances comprising the total distance that is within British Columbia;
- total distance = whichever of the following is applicable:
- (a) if the dedicated telecommunication system does not include an electronic device that is a satellite, the total of the distances, measured in a direct line, between electronic devices that are connected to the system, with the distance between any 2 electronic devices connected to the system included only once in the calculation of total distance;
 - (b) if the dedicated telecommunication system does include an electronic device that is a satellite, the total of the distances, measured in a direct line, between electronic devices that are connected to the system but that are not satellites, with the distance between any 2 of these electronic devices included only once in the calculation of total distance.

Calculation if telecommunication only partly through dedicated system

- 132** (1) This section applies if
- (a) a person purchases a telecommunication service for the purposes of sending from British Columbia or receiving in British Columbia a telecommunication, and
 - (b) the telecommunication is effected in part through a dedicated telecommunication system and in part through a telecommunication system that is not a dedicated telecommunication system.
- (2) The tax payable by the purchaser on the provision of the telecommunication service referred to in subsection (1) must be calculated as follows:

- (a) the tax payable on the portion of the purchase price that is attributable to the dedicated telecommunication system must be calculated in accordance with section 131 (2);
 - (b) the tax payable on the portion of the purchase price that is attributable to a telecommunication system that is not a dedicated telecommunication system must be calculated in accordance with section 130.
- (3) If the purchase price for a telecommunication service is only partly payable for a dedicated telecommunication service, for the purposes of subsection (2), the director may determine the portion of the purchase price that is attributable to the dedicated telecommunication system.

Tax if motion picture exhibited

- 133** (1) A person
- (a) who, under section 143 (b) (ii), purchased exempt from tax a telecommunication service in respect of a recording of a motion picture, and
 - (b) who exhibits the motion picture in a movie theatre or other public venue
- must pay to the government tax in an amount equal to the amount of tax under this Act that would have otherwise been payable if the person had purchased the right or authority to exhibit the motion picture from a willing seller acting in good faith in an arm's length transaction in the open market.
- (2) Tax payable under subsection (1) must be paid on or before the last day of the month after the month in which the motion picture is exhibited.
- (3) Despite subsection (2), tax payable under subsection (1) by a registrant must be paid at or before the prescribed time and in the prescribed manner.

Exemption if telecommunication service purchased for resale

- 134** Subject to section 135, a purchaser who purchases a telecommunication service is exempt from tax imposed under this Division on that purchase if the purchase is made for the sole purpose of selling to other persons the rights comprising that telecommunication service.

Exemption for activities outside British Columbia in relation to a telecommunication

- 134.1** (1) The sending or receiving of a telecommunication by means of an electronic device that is ordinarily situated in British Columbia is exempt from tax imposed under this Division if
- (a) the telecommunication originates outside British Columbia and is received outside British Columbia, and
 - (b) any charges in respect of the telecommunication are segregated on the invoice provided to the purchaser of the telecommunication service.
- (2) The downloading, viewing and accessing of a telecommunication by means of an electronic device that is ordinarily situated in British Columbia is exempt from tax imposed under this Division if
- (a) the telecommunication is downloaded, viewed and accessed outside of British Columbia, and
 - (b) any charges in respect of the telecommunication are segregated on the invoice provided to the purchaser of the telecommunication service.

Division 6 — Taxable Service Acquired by Small Seller

Exemptions not applicable to small seller

- 135** The exemptions set out in sections 121 (2) [*exemption if related service purchased for resale*], 134 [*exemption if telecommunication service purchased for resale*] and 143 [*exemption in relation to recording of motion picture or audio production*] and under prescribed sections of the regulations do not apply in relation to a small seller who purchases a taxable service.

Exemption in relation to taxable service acquired from small seller

- 136** If a purchaser purchases a taxable service, other than accommodation, from a small seller, the person is exempt from tax imposed under Divisions 1, 2, 4 and 5 on that purchase.

PART 6 — EXEMPTIONS

Taxable component sold with non-taxable component for single price

- 137** Subject to the regulations, a taxable component is exempt from tax imposed under this Act if
- (a) the taxable component is sold with a non-taxable component for a single price,
 - (b) the fair market value of the taxable component is
 - (i) \$50 or less, and
 - (ii) 10% or less of the fair market value of all the taxable and non-taxable components sold for the single price,
 - (c) the taxable component is
 - (i) prepackaged with the non-taxable component, or
 - (ii) not ordinarily sold by the seller separately from the non-taxable component,
 - (d) the taxable component is not being provided by way of promotional distribution, and
 - (e) none of the taxable components sold with the non-taxable components for a single price are liquor, a telecommunication service or legal services.

Exemption for minimal sale of tangible personal property

- 138** Sales of tangible personal property at a purchase price of less than \$0.15 are exempt from tax imposed under Part 3.

Exemptions in relation to food

- 139** The following are exempt from tax imposed under Part 3:
- (a) food products for human consumption, other than prescribed food products;
 - (b) water in liquid or frozen form.

Exemption in relation to fuel

- 140** Fuel within the meaning of the *Motor Fuel Tax Act* is exempt from tax imposed under Divisions 2 to 10 and 12 of Part 3.

Exemptions in relation to industry and commerce

141 (1) Subject to subsection (1.1) and sections 89 (2) [*tax on acquisition of eligible tangible personal property*] and 99 (6) [*tax on acquisition of exclusive product by independent sales contractor*], the following are exempt from tax imposed under Part 3:

- (a) subject to subsections (2) to (4) of this section, tangible personal property that is purchased in British Columbia, brought or sent into British Columbia or delivered in British Columbia for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property, other than prescribed tangible personal property, for the purpose of retail sale or lease;
- (b) labels that are purchased in British Columbia, brought or sent into British Columbia or delivered in British Columbia for the purpose of being attached to tangible personal property held for sale or lease and that are intended to remain with the tangible personal property after it is sold or leased;
- (c) subject to subsections (3) and (4), tangible personal property that is brought or sent into British Columbia, delivered in British Columbia or purchased for the purpose of being used in the course of providing a related service to other tangible personal property and that remains part of, or attached to, the other tangible personal property after the service has been provided;
- (d) subject to subsection (3), tangible personal property, other than prescribed tangible personal property, that is brought or sent into British Columbia, delivered in British Columbia or purchased for the purpose of being attached to or processed, fabricated, manufactured or incorporated into a prototype, or copies of the prototype made for a prescribed purpose, if the prototype is a result of research and development activities aimed at developing a new or improved product or a new or improved process;
- (e) a prototype or, if made for a prescribed purpose, a copy of a prototype if the prototype or copy is a result of research and development activities aimed at developing a new or improved product or a new or improved process;
- (f) [Repealed]

- (1.1) The exemptions under subsection (1) do not apply to tangible personal property that is leased.
- (2) The exemption under subsection (1) (a) does not apply to a reusable container subject to tax under section 101.
- (3) If tangible personal property, other than electricity used in an electrolytic process, is used to produce energy or is used as a source of energy, the exemption under subsection (1) (a), (c) or (d) does not apply to the tangible personal property.
- (4) The exemptions under subsection (1) (a) and (c) do not apply if the person who purchased in British Columbia, brought or sent into British Columbia, received delivery of in British Columbia the tangible personal property that is used for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property for the purpose of retail sale or lease is to retain an interest in the tangible personal property after the retail sale or lease.

Exemptions for purchases or leases of tangible personal property intended for lease

- 142**
- (1) A purchaser of tangible personal property is exempt from tax imposed under Part 3 on the purchase if the purchaser purchases the tangible personal property for the purpose only of leasing the property to other persons.
 - (2) A lessee of tangible personal property is exempt from tax imposed under Part 3 on that lease if the lessee leases the tangible personal property for the purpose only of re-leasing the property to other persons.
 - (2.1) A person who brings or sends into British Columbia, or receives delivery of in British Columbia, tangible personal property is exempt from tax imposed under Part 3 in respect of the bringing or sending into British Columbia, or delivery in British Columbia, of the tangible personal property if the person brought or sent into British Columbia, or received delivery of in British Columbia, the tangible personal property solely for the purpose only of leasing the property to other persons.
 - (3) The exemption under subsection (1), (2) or (2.1) does not apply to a person if the person is granting to other persons a right to use the tangible personal property under an agreement in which
 - (a) the right to use the tangible personal property is not the main purpose of the agreement, and
 - (b) a separate price is not specified for the right to use the tangible personal property.
 - (4) A purchaser of tangible personal property is exempt from tax imposed under Part 3 on the purchase if the purchaser
 - (a) purchases the tangible personal property solely for the purposes of
 - (i) leasing the property to other persons, and
 - (ii) occasionally, under an agreement, supplying the property with a person to operate it, and
 - (b) capitalizes the tangible personal property as lease inventory in the purchaser's business accounting records.
 - (5) A person who brings or sends into British Columbia, or receives delivery of in British Columbia, tangible personal property is exempt from tax imposed under Part 3 in respect of the bringing or sending into British Columbia, or delivery in British Columbia, of the tangible personal property if the person
 - (a) brought or sent into British Columbia, or received delivery of in British Columbia, the tangible personal property solely for the purposes of
 - (i) leasing the property to other persons, and
 - (ii) occasionally, under an agreement, supplying the property with a person to operate it, and
 - (b) capitalizes the tangible personal property as lease inventory in the person's business accounting records.

Exemption in relation to recording of motion picture or audio production

- 143** Subject to sections 89 (2) and 135 [*tax on acquisition of eligible tangible personal property*], a recording of a motion picture production or of an audio production is exempt from tax imposed under Part 3 [*Taxes in Relation to Tangible Personal Property*] or Division 5

[*Telecommunication Services*] of Part 5 if the recording is purchased for the purpose of

- (a) public broadcast by a licensed radio or television broadcaster,
- (b) making copies for
 - (i) public broadcast by a licensed radio or television broadcaster,
 - (ii) public exhibition in a movie theatre or other public venue, or
 - (iii) sale or lease, or
- (c) copying into another recording of a motion picture production or of an audio production for
 - (i) public broadcast by a licensed radio or television broadcaster,
 - (ii) public exhibition in a movie theatre or other public venue, or
 - (iii) sale or lease.

Limit on exemptions

- 144**
- (1) An exemption provided under this Act for tangible personal property does not apply to tangible personal property used to make that property.
 - (2) An exemption provided under this Act for software does not apply to
 - (a) tangible personal property used to develop or make that software, or
 - (b) software used to develop or make that software.

Evidence required to claim certain exemptions

- 145**
- (1) Subsection (1.1) applies to a collector if the collector sells tangible personal property at a sale in British Columbia, leases tangible personal property, sells software or causes the tangible personal property or software to be delivered in British Columbia to a person who alleges that
 - (a) the tangible personal property is exempt under section 141, 142 or 143 or under prescribed sections of the regulations from tax imposed under Part 3, or
 - (b) the software is exempt under section 113 (1) (c) (ii) or (iii) or under prescribed sections of the regulations from tax under Part 4.
 - (1.1) A collector to whom this subsection applies must nevertheless levy and collect the tax under Part 3 or 4 in respect of the tangible personal property unless the collector obtains from that person, at or before the time the tax is payable,
 - (a) a declaration in a form acceptable to the director, if required by the regulations,
 - (b) any information or document required by the regulations, and
 - (c) any information or document required by the director.
 - (2) If a collector provides a taxable service to a person who alleges that the taxable service is exempt under Part 5 or under prescribed sections of the regulations from tax under Part 5, the collector must nevertheless levy and collect the tax under that Part unless the collector obtains from that person, at or before the time the tax is payable,
 - (a) a declaration in a form acceptable to the director, if required by the regulations,
 - (b) any information or document required by the regulations, and
 - (c) any information or document required by the director.

PART 7 — REFUNDS

Division 1 — Refunds from Collectors

Refund if no obligation to pay

- 146** (1) If a person has paid an amount as tax on a purchase of tangible personal property, software or a taxable service in circumstances in which there was no legal obligation to pay the amount as tax, the collector may, within 180 days of the date the amount was paid, refund or credit to the person the amount paid as tax.
- (2) If a person has paid an amount as tax in respect of a lease of tangible personal property in circumstances in which there was no legal obligation to pay the amount as tax, the collector may, within 180 days of the date the amount was paid, refund or credit to the person the amount paid as tax.

Refund if person fails to provide evidence at time of sale or lease

- 147** (1) If
- (a) a person has paid to a collector an amount of tax on a purchase of tangible personal property, software or a taxable service in accordance with section 37 (3), (4) or (5), 49 (10), (11) or (12), 92 (2), 93 (4), 95 (3), 119 (2), 130 (3) or 145 (1) or (2) or a prescribed section of the regulations in circumstances in which the person would not have been required to pay the amount if the collector had obtained from the person, at or before the time the tax was payable, the information or document referred to in the applicable section, and
 - (b) the collector subsequently obtains from the person the information or document referred to in the applicable section,
- the collector may, within 180 days of the date the amount of tax was paid, refund or credit to the person the amount of tax paid.
- (2) If
- (a) a person has paid to a collector an amount of tax in respect of a lease of tangible personal property in accordance with section 44 (2) or 145 (1) or a prescribed section of the regulations in circumstances in which the person would not have been required to pay the amount if the collector had obtained from the person, at or before the time the tax was payable, the information or document referred to in the applicable section, and
 - (b) the collector subsequently obtains from the person the information or document referred to in the applicable section,
- the collector may, within 180 days of the date the amount of tax was paid, refund or credit to the person the amount of tax paid.

Prohibition — refund or credit already received

- 148** (1) A person who has applied for or received a refund from the director under section 152 is not entitled to and must not request a refund under section 146 in respect of the same payment of an amount as tax.

- (2) A person who has applied for or received a refund from the director under section 153 is not entitled to and must not request a refund under section 147 in respect of the same payment of tax.

Refund if motor vehicle returned to collector

149 If

- (a) a purchaser returns a motor vehicle to the collector who sold it to the purchaser within one year of the date tax is payable under this Act in respect of the purchase, and
- (b) in return for the motor vehicle the collector refunds or credits to the purchaser all or a portion of the purchase price,

the collector must, at the time the refund or credit of the purchase price is paid or allowed, refund to the purchaser the amount of tax paid by the purchaser that is attributable to the amount of the refund or credit of the purchase price.

Refund or credit of purchase price

- 150** Subject to section 149, if a collector, within 4 years of the date tax is payable under this Act in respect of the purchase, pays a refund or allows a credit to a purchaser of tangible personal property, software or a taxable service of all or a portion of the purchase price, the collector may, at the time the refund or credit of the purchase price is paid or allowed, refund or credit to the purchaser the amount of tax paid by the purchaser that is attributable to the amount of the refund or credit of the purchase price.

Refund or credit of lease price

- 151** If a collector, within 4 years of the date tax is payable under this Act in respect of a lease, pays a refund or allows a credit to a lessee of tangible personal property of all or a portion of the lease price, the collector may, at the time the refund or credit of the lease price is paid or allowed, refund or credit to the lessee the amount of tax paid by the lessee that is attributable to the amount of the refund or credit of the lease price.

Division 2 — Refunds from Director

Refund if no obligation to pay or collect

- 152** (1) If the director is satisfied that
- (a) a person has paid an amount as tax under this Act in circumstances in which there was no legal obligation to pay the amount as tax, and
 - (b) the person has not been paid a refund or allowed a credit under section 146 in respect of the amount,
- the director must refund to that person the amount paid as tax.
- (2) If the director is satisfied that a collector has remitted to the government an amount in circumstances in which the collector
- (a) was not required to levy and collect the amount under this Act, and
 - (b) did not collect the amount under this Act,
- the director must refund that amount to the collector.

Refund if person fails to provide evidence at time of sale or lease

- 153** (1) If the director is satisfied that
- (a) a person was required to pay to a collector an amount of tax under section 37 (3), (4) or (5), 44 (2), 49 (10), (11) or (12), 92 (2), 93 (4), 95 (3), 119 (2), 130 (3) or 145 (1) or (2) or a prescribed section of the regulations in circumstances in which the person would not have been required to pay the amount if the collector had obtained from the person, at or before the time the tax was payable, the information or document referred to in the applicable section,
 - (b) the person would not have been required to pay the amount of tax to the collector but for the section of this Act or the regulations referred to in paragraph (a), as applicable, and
 - (c) the person has not been paid a refund or allowed a credit under section 147 in respect of the amount of tax paid,
- the director must refund to the person the amount of tax paid.
- (2) Subsection (1) does not apply if a person has received a refund or credit under Division 6 [*Conveyances Used Interjurisdictionally*] or 7 [*Multijurisdictional Vehicles*] of Part 3 in respect of the same payment of tax.

Refund if person fails to provide evidence at time of vehicle registration

- 153.1** If the director is satisfied that
- (a) a person was required to pay to the Insurance Corporation of British Columbia an amount of tax under section 37, 49, 50, 52 or 100 in circumstances in which the person would not have been required to pay the amount if the Insurance Corporation of British Columbia had obtained from the person, at or before the time the tax was payable, the information or document referred to in section 30 (6), and
 - (b) the person would not have been required to pay the amount of tax to the Insurance Corporation of British Columbia but for section 30 (6),
- the director must refund to the person the amount of tax paid.

Motor vehicle returned to manufacturer

- 154** If the director is satisfied that
- (a) a purchaser returned a motor vehicle to the manufacturer more than one year after the date of purchase,
 - (b) the return of the motor vehicle to the manufacturer results from an independent, impartial third party dispute resolution process, and
 - (c) on the return of the motor vehicle the manufacturer paid a refund or allowed a credit to the purchaser of all or a portion of the purchase price,
- the director must refund to the purchaser the amount of tax paid by the purchaser that is attributable to the amount of the refund or credit of the purchase price.

Refund in accordance with Nisga'a Nation Taxation Agreement

- 155** (1) In this section, “**Taxation Agreement**” means the Nisga'a Nation Taxation Agreement tabled in the Legislative Assembly on November 30, 1998, and includes any amendments to that agreement made in accordance with its terms.

- (2) If the Taxation Agreement provides that a person is entitled to a refund of tax paid by the person under this Act, on application and on receipt of evidence establishing that the person is so entitled, the director must pay that refund to that person.

Refund in accordance with treaty first nation tax treatment agreement

- 156** If a tax treatment agreement of a treaty first nation provides that a person is entitled to a refund of tax paid by the person under this Act, on application and on receipt of evidence establishing that the person is so entitled, the director must pay that refund to that person.

Refund by director if collector does not provide refund

- 157** (1) If the director is satisfied that
- (a) a collector paid a refund or allowed a credit to a person of all or a portion of a purchase price in the circumstances referred to in section 149 or 150, and
 - (b) the collector did not refund or credit to the person the amount of tax paid by the person under this Act that is attributable to the amount of the refund or credit of the purchase price,
- the director must refund to that person the amount of tax paid by the person that is attributable to the amount of the refund or credit of the purchase price.
- (2) If the director is satisfied that
- (a) a collector paid a refund or allowed a credit to a person of all or a portion of a lease price in the circumstances referred to in section 151, and
 - (b) the collector did not refund or credit to the person the amount of tax paid by the person that is attributable to the amount of the refund or credit of the lease price,
- the director must refund to that person the amount of tax paid by the person that is attributable to the amount of the refund or credit of the lease price.

Property shipped out of British Columbia

- 158** If the director is satisfied that
- (a) a purchaser purchased tangible personal property at a sale in British Columbia for a business use and paid tax under Part 3 on the purchase,
 - (b) the tangible personal property,
 - (i) in the case of tangible personal property provided by way of promotional distribution, was shipped out of British Columbia in bulk to a recipient for the recipient's own use or consumption outside British Columbia, or
 - (ii) in any other case, was shipped out of British Columbia for use outside British Columbia, and
 - (c) no use whatsoever was made of the tangible personal property while it was in British Columbia other than to store it in and to ship it out of British Columbia,
- the director must refund to the purchaser the tax paid under Part 3 on the purchase.

Refund or deduction for bad debts

- 159** (1) In this section:

- “specified amount”**, in relation to a transaction, means a portion, determined in the prescribed manner, of the amount remitted by the person to the government in respect of taxes payable under this Act on that transaction;
- “transaction”** means a transaction referred to in subsection (2) (a).
- (2) This section applies to a person in respect of a transaction if
- (a) the person sells or leases tangible personal property or provides software or a taxable service,
 - (b) the person, in accordance with this Act, remits the tax required under this Act to be levied and collected for the transaction,
 - (c) the person is a registrant at the time the transaction occurs,
 - (d) the purchaser or lessee does not pay to the person the full amount of the consideration in respect of the transaction, and
 - (e) within 4 years of the date on which the tax referred to in paragraph (b) was remitted, the person writes off as unrealizable or uncollectable the amount owing by the purchaser or lessee.
- (3) A registrant to whom this section applies in respect of a transaction may deduct the specified amount from the amount of taxes that the registrant is required to remit under this Act in respect of the reporting period in which the registrant writes off the amount owing referred to in subsection (2) (e).
- (4) A deduction referred to in subsection (3) must be made in a form specified by the director.
- (5) If the director is satisfied that
- (a) this section applies to a person in respect of a transaction, and
 - (b) if the person is a registrant, the person has not made a deduction under subsection (3) in respect of the transaction,
- the director must refund the specified amount to the person.
- (6) If a registrant who has made a deduction under subsection (3) or obtained a refund under subsection (5) recovers some or all of the amount referred to in subsection (2) (e) with respect to which the refund was paid or the deduction was made, the registrant must add an amount, determined in the prescribed manner, to the tax remitted by the registrant under this Act in respect of the reporting period in which the recovery was made.
- (7) If a person, other than a registrant referred to in subsection (6), who obtained a refund under subsection (5) recovers some or all of the amount referred to in subsection (2) (e) with respect to which the refund was paid, the person must pay to the government an amount, determined in the prescribed manner, on or before the last day of the month following the month in which the recovery was made.

Refund to collector

- 160** (1) This section applies to a collector if the collector has
- (a) levied and remitted an amount in accordance with this Act, and
 - (b) paid a refund or allowed a credit under Division 1 of this Part in respect of the amount referred to in paragraph (a).

- (2) If a collector to whom this section applies is a registrant, the collector may deduct, in respect of the reporting period in which the refund or credit referred to in subsection (1) (b) is paid or allowed, the amount of the refund or credit from the amount of taxes that the collector is required to remit under this Act.
- (3) A deduction referred to in subsection (2) must be made in a form specified by the director.
- (4) If the director is satisfied that
 - (a) this section applies to a collector, and
 - (b) if the collector is a registrant, the collector has not made a deduction under subsection (2) in respect of the refund or credit referred to in subsection (1) (b),the director must refund to the collector the amount of the refund or credit referred to in subsection (1) (b).

Refund to small seller

161 If the director is satisfied that

- (a) a person as a small seller paid tax
 - (i) under section 37 in accordance with section 89 in respect of eligible tangible personal property.
 - (ii) under section 49 in accordance with section 90 in respect of eligible tangible personal property,
 - (iii) under section 55 in respect of eligible tangible personal property,
 - (iv) under section 112 in respect of software, or
 - (v) under Division 1, 2, 4 or 5 of Part 5 in respect of a taxable service, other than accommodation, purchased for resale, and
- (b) when the person sold the eligible tangible personal property, software or taxable service, the person was a collector who levied and collected tax as required by this Act on that sale,

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

Refunds authorized or required under regulations

162 The director,

- (a) if authorized by the regulations, may refund all or part of an amount paid or remitted under this Act by an applicant for a refund,
- (b) if required by the regulations, must refund all or part of an amount paid or remitted under this Act by an applicant for a refund,
- (c) if authorized by the regulations, may refund to an eligible charity who applies for a refund all or part of an amount paid under this Act by a person, and
- (d) if required by the regulations, must refund to an eligible charity who applies for a refund all or part of an amount paid under this Act by a person.

Prohibition — refund or credit already received

163 (1) A person who has been paid a refund or allowed a credit under Division 1 is not entitled to and must not apply for a refund under this Division in respect of any portion of the amount of the refund or credit paid or allowed under Division 1.

- (2) If a person is paid a refund under this Division and the person subsequently is paid a refund or allowed a credit under Division 1 in respect of the same payment of tax, that person must pay to the government the amount refunded under this Division on or before the last day of the month after the month in which the refund under Division 1 was received by that person.

Division 3 — General

Definition

164 In this Division, “**refund**” means a refund payable under this Act by the director.

Claim for refund

- 165** (1) To claim a refund, other than under section 155 or 156, a person or an eligible charity must
- (a) subject to the regulations, submit to the director a written application in the form and manner satisfactory to the director and,
 - (i) in the case of claim by an eligible charity, signed by the authorized representative of the eligible charity, or
 - (ii) in any other case, signed by the person who paid or remitted the amount claimed, and
 - (b) submit to the director any information or document required by the director..
- (2) For the purposes of subsection (1) (a), if the person who paid or remitted the amount claimed is a corporation or the eligible charity making the claim is a corporation, the application must be signed by a member of the board of directors or an authorized employee of the corporation.
- (3) Despite anything in this Act or the regulations, the director is not required to pay a refund to a person or an eligible charity, other than a refund under section 155 or 156, unless the requirements of this section are met.

Refund limits

- 166** (1) Despite section 16 of the *Financial Administration Act*,
- (a) a refund of less than \$10 must not be made,
 - (b) a refund, other than a refund referred to in paragraph (c) or (d), must not be made on a claim for a refund that is received by the director more than 4 years after the date on which the amount claimed was paid or remitted,
 - (c) a refund to a person under section 159 (5) must not be made on a claim for a refund that is received by the director more than 4 years after the date on which the person writes off as unrealizable or uncollectable the amount owing by the purchaser or lessee, and
 - (d) a refund to a collector under section 160 (4) must not be made on a claim for a refund that is received by the director more than 4 years after the date on which the collector paid a refund or allowed a credit under Division 1.
- (2) Despite the *Limitation Act*,

- (a) an action for a refund, other than a refund referred to in paragraph (b) or (c), must not be brought more than 4 years after the date on which the amount claimed was paid or remitted,
- (b) an action for a refund under section 159 (5) must not be brought more than 4 years after the date on which the person writes off as unrealizable or uncollectable the amount owing by the purchaser or lessee, and
- (c) an action for a refund under section 160 (4) must not be brought more than 4 years after the date on which the collector paid the refund or allowed the credit under Division 1.

Appropriation for refunds

- 167** If the director pays a refund, the director must pay the refund from the consolidated revenue fund.

PART 8 — REGISTRATION AND TAX COLLECTION

Division 1 — Registration

Registration

- 168** (1) In this section, “**applicant**” means any of the following:
- (a) a vendor or lessor who is required under section 169 to be registered under this section;
 - (b) a contractor who is required under section 170 to be registered under this section;
 - (c) a direct seller who is required under section 171 to be registered under this section;
 - (d) a person who is required under section 172 to be registered under this section;
 - (e) any other person who
 - (i) carries on business in British Columbia, or
 - (ii) intends to carry on business in British Columbia.
- (2) An applicant may apply to the director to be registered for the purposes of this Act by submitting to the director
- (a) an application in a form specified by the director, and
 - (b) any information required by the director.
- (3) Subject to subsections (7) to (9), on receipt of an application and the information referred to in subsection (2), the director must
- (a) register the applicant for the purposes of this Act, and
 - (b) issue the applicant a registration number.
- (4) If the director issues more than one registration number to an applicant, the director may impose conditions restricting the use of a registration number by the applicant to a particular business carried on by the applicant or to a particular location from which the applicant carries on business.
- (5) A registration number is not transferable.

- (6) Before the director registers an applicant under subsection (3), the director may require the applicant to deposit a bond under section 216 [*collection bond*] by the date specified by the director.
- (7) The director may refuse to register an applicant under subsection (3) if any of the following apply:
 - (a) the applicant does not hold the registrations, licences, permits or other authorizations that the applicant is required by law to hold in order to carry on business;
 - (b) the applicant has failed to deposit a bond required under section 216 [*collection bond*] by the date specified by the director under subsection (6) of this section;
 - (c) the applicant has refused or neglected to comply with a provision of, or has committed an offence against,
 - (i) this Act or any other Act that has, as its purpose, the imposition of a tax, or
 - (ii) the regulations made under this Act or any other Act described in subparagraph (i);
 - (d) based on the facts set out in the application for registration or the other information required by the director, the director reasonably believes that the applicant will be committing an offence under this Act or any other enactment, or under a law of Canada or another province, in selling or leasing tangible personal property or providing software or a taxable service.
- (8) The director must refuse to register an applicant under subsection (3) if the applicant
 - (a) is, or proposes to be, a motor dealer, as defined in the *Motor Dealer Act*, and
 - (b) is not registered under that Act for each location in British Columbia at which the applicant carries on business, or intends to carry on business, as a motor dealer.
- (9) The director must refuse to register an applicant under subsection (3) who is an independent sales contractor unless the applicant carries on, or intends to carry on, a business that is not related to the sale of exclusive products.
- (10) If the director refuses to register an applicant under subsection (3), the director, as soon as reasonably possible, must give the applicant written reasons for the refusal.

Vendors and lessors must be registered

- 169** (1) A vendor must not sell or provide tangible personal property in British Columbia at a retail sale unless the vendor
- (a) is registered under section 168 at the time of sale, or
 - (b) sells or provides only tangible personal property that is exempt from tax imposed under this Act.
- (1.1) Subsection (2) applies to a lessor who does one or more of the following:
- (a) enters into leases in British Columbia with a lessee;
 - (b) leases, to a lessee or any other person referred to in the definition of “lessee”, tangible personal property that is in British Columbia at the time the lease is entered into;
 - (c) transfers possession of or delivers the tangible personal property to a lessee, or any other person referred to in the definition of “lessee”, in British Columbia.

- (2) A lessor to whom this subsection applies must not do one or more of the activities referred to in subsection (1.1) (a) to (c) unless the lessor
 - (a) is registered under section 168 at the time the lessor does the activity, or
 - (b) leases only tangible personal property that is exempt from tax imposed under this Act.
- (3) A vendor must not sell or provide software in British Columbia at a retail sale unless the vendor
 - (a) is registered under section 168 at the time of sale, or
 - (b) sells or provides only software that is exempt from tax imposed under this Act.
- (4) A vendor must not sell or provide a taxable service in British Columbia at a retail sale unless the vendor
 - (a) is registered under section 168 at the time of sale, or
 - (b) sells or provides only a taxable service that is exempt from tax imposed under this Act.
- (5) Despite subsections (1) (a), (3) (a) and (4) (a), a person who is a vendor on ceasing to be a small seller must be registered under section 168 on or before the last day of the first month in which the person is a vendor.

Contractor must be registered

- 170** (1) This section applies to a contractor who
- (a) has entered into an agreement referred to in section 79 (1) (c) or (2) (c) [*contractor exempt from tax under section 37 or 49*] in respect of liability for tax imposed under section 80 in relation to a supply of tangible personal property, or
 - (b) has entered into an agreement referred to in section 80.5 (6) (a) [*tax on tangible personal property used by contractor to improve real property*] in respect of liability for tax imposed under section 80.6 in relation to a supply of tangible personal property.
- (2) A contractor to whom this section applies contractor must not supply the tangible personal property referred to in subsection (1) unless the contractor is registered under section 168 at the time the contractor supplies the tangible personal property.

Direct seller must be registered

- 171** A direct seller must not sell an exclusive product to an independent sales contractor in British Columbia unless the direct seller is registered under section 168 at the time of sale.

Person located in Canada but outside British Columbia must be registered

- 172** (1) Subject to subsection (2), a person must be registered under section 168 at the time the person causes tangible personal property to be delivered into British Columbia if the person is located in Canada but outside British Columbia and, in the ordinary course of business, does all of the following:
- (a) solicits persons in British Columbia for orders to purchase tangible personal property, by advertising or any other means;
 - (b) accepts orders to purchase tangible personal property, if the orders to purchase originate from locations in British Columbia;

- (c) sells tangible personal property to a person in British Columbia for use or consumption
 - (i) by the person,
 - (ii) by a third person at the expense of the person to whom the property is sold,
 - (iii) by a principal for whom the person acts as agent, or
 - (iv) by a third person at the expense of the principal for whom the person to whom the property is sold acts as agent;
 - (d) causes the tangible personal property described in paragraph (c) to be delivered into British Columbia.
- (2) Subsection (1) does not apply to a person if the person sells only tangible personal property that is exempt from tax imposed under this Act.
- (2.1) Subject to subsection (2.2), a person must be registered under section 168 at the time the person provides software for use on or with an electronic device ordinarily situated in British Columbia, or provides a telecommunication service, if the person is located in Canada but outside British Columbia and, in the ordinary course of business, does all of the following:
- (a) solicits persons in British Columbia for orders to purchase software or a telecommunication service, by advertising or any other means;
 - (b) accepts orders to purchase software or a telecommunication service, if the orders to purchase originate from locations in British Columbia;
 - (c) sells or provides software or a telecommunication service to a person in British Columbia for use or benefit
 - (i) by the person,
 - (ii) by a third person at the expense of the person to whom the software or telecommunication service is sold,
 - (iii) by a principal for whom the person acts as agent, or
 - (iv) by a third person at the expense of the principal for whom the person to whom the software or telecommunication service is sold acts as agent.
- (2.2) Subsection (2.1) does not apply to a person if the person sells only software or a telecommunication service that is exempt from tax imposed under this Act.
- (3) Sections 83 [*demand on third party*] and 85 [*books and records are property of the government*] of the *Financial Administration Act* do not apply to a person who is required under subsection (1) or (2.1) of this section to be registered under section 168.

Suspension or cancellation of registration

- 173** (1) The director may, without advance notice to a person, suspend the person's registration under section 168 for a period of up to 60 days
- (a) if the director is satisfied that the person knowingly gave false information on an application for registration, or
 - (b) if the person refuses or neglects to comply with
 - (i) a provision of this Act or the regulations,
 - (ii) a condition imposed by the director under section 168 (4), or

- (iii) a requirement of the director to deposit a bond under section 216 [*collection bond*].
- (2) If the director suspends the registration of a person under subsection (1), the director must, as soon as reasonably possible,
 - (a) give the person written reasons for the suspension, and
 - (b) provide the person with an opportunity to show the director why the suspension should be lifted.
- (3) Subject to subsection (4), the director may, by notice delivered to a person, cancel the person's registration
 - (a) if the director is satisfied that the person knowingly gave false information on an application for registration, or
 - (b) if the person refuses or neglects to comply with
 - (i) a provision of this Act or the regulations,
 - (ii) a condition imposed by the director under section 168 (4), or
 - (iii) a requirement of the director to deposit a bond under section 216.
- (4) Before cancelling a person's registration under subsection (3), the director must
 - (a) give the person notice of the reasons for the proposed cancellation, and
 - (b) provide the person with an opportunity to show the director why the registration should not be cancelled.
- (5) Cancellation of a person's registration under subsection (3) takes effect on the later of
 - (a) the date the notice of cancellation under subsection (3) is delivered to the person, and
 - (b) the date stated in the notice.
- (6) A suspension or cancellation of a person's registration under this section does not relieve the person from any obligation under this Act.

When registrant must notify director

- 174**
- (1) In this section, "**registrant**" includes a person whose registration under section 168 is suspended.
 - (2) If a registrant's name, address or business name changes or the nature of the registrant's business changes, the registrant must notify the director in a manner specified by the director on or before the last day of the month after the month in which the change occurred.
 - (3) If a registrant ceases to carry on business in British Columbia,
 - (a) the registrant must notify the director, in a form and manner specified by the director, of the cessation of business on or before the last day of the month after the month in which the cessation of business occurred, and
 - (b) the registrant's registration is deemed to be cancelled effective on the earlier of
 - (i) the date the director receives notification, and
 - (ii) the last day of the month after the month in which the cessation of business occurred.

- (4) If a registrant who is required under section 172 to be registered ceases to do all of the activities described in section 172 (1) (a) to (d) in the ordinary course of business,
 - (a) the registrant must notify the director, in a form and manner specified by the director, of the cessation on or before the last day of the month after the month in which the cessation occurred, and
 - (b) the registrant's registration is deemed to be cancelled effective on the earlier of
 - (i) the date the director receives notification, and
 - (ii) the last day of the month after the month in which the cessation occurred.
- (5) If a registrant applied for registration as an applicant referred to in section 168 (1) (e) (ii) and no longer intends to carry on business in British Columbia,
 - (a) the registrant must notify the director, in a form and manner specified by the director, that the registrant no longer intends to carry on business on or before the last day of the month after the month in which the registrant determines that the registrant no longer intends to carry on business, and
 - (b) the registrant's registration is deemed to be cancelled effective on the earlier of
 - (i) the date the director receives notification, and
 - (ii) the last day of the month after the month in which the registrant determines that the registrant no longer intends to carry on business.
- (6) The cancellation of a person's registration under this section does not relieve the person from any obligation under this Act.

Cancellation of registration if small seller

- 175**
- (1) A person who is a registrant may apply to the director to have the person's registration cancelled under subsection (2) by submitting to the director
 - (a) an application in a form specified by the director, and
 - (b) any information required by the director.
 - (2) On receipt of an application and the information referred to in subsection (1), the director, subject to subsection (3), may cancel the person's registration by notice delivered to the person if the director is satisfied that the person would be a small seller if the person were not registered under section 168.
 - (3) The director may not cancel a person's registration under subsection (2) unless the person has been registered under section 168 for at least one year.
 - (4) Cancellation of a person's registration under subsection (2) takes effect on the later of
 - (a) the date the notice of cancellation under subsection (2) is delivered to the person, and
 - (b) the date stated in the notice.
 - (5) The cancellation of a person's registration under this section does not relieve the person from any obligation under this Act.

Registrant who is independent sales contractor

- 176** If a person is a registrant and an independent sales contractor, the person is deemed not to be a registrant in relation to a sale of an exclusive product that is sold by the person as an independent sales contractor.

Prohibitions relating to use of registration number

- 177**
- (1) If a person's registration under section 168 is suspended or cancelled under section 173, the person must not use the person's registration number.
 - (2) A person must not use a registration number issued to the person when purchasing or leasing tangible personal property or purchasing software or a taxable service unless
 - (a) the person is
 - (i) purchasing or leasing the tangible personal property for resale or for leasing the property to other persons, or
 - (ii) purchasing the software or taxable service for resale, or
 - (b) the person is otherwise authorized under this Act to use the person's registration number.
 - (3) A person must not use a registration number issued to another person.

Division 2 — Collection and Remittance of Tax

Collector is agent

- 178**
- (1) Subject to subsection (2), a collector is an agent of the government for the purposes of this Act.
 - (2) A collector who provides accommodation is an agent of the municipality, regional district or eligible entity for the purposes of levying and collecting the tax imposed under section 123.
 - (3) As agent under subsection (1) or (2), the collector must levy and collect tax as required under this Act.
 - (4) The director may, in writing, exempt from the requirements of subsection (1) a collector who sells tangible personal property or provides a telecommunication service or related service at a retail sale in British Columbia on a passenger-carrying commercial vessel that makes scheduled sailings
 - (a) from a port in British Columbia to a port outside British Columbia, or
 - (b) from a port outside British Columbia to a port in British Columbia.

Collection and remittance of tax by collector

- 179**
- (1) If tax is imposed under this Act in relation to tangible personal property sold or leased by a collector or to software or a taxable service sold by a collector, the collector must levy and collect the tax at the time the tax is payable in accordance with section 28.
 - (1.1) If tax is imposed under this Act in relation to a gift of a vehicle, boat or aircraft given by a collector to a person who must pay tax imposed under section 100 in respect of the gift, the collector must levy and collect the tax at the time the tax is payable in accordance with section 31 (1).
 - (2) A collector must remit to the government, at the prescribed time and in the prescribed manner, amounts of tax levied under this Act by the collector, whether or not collected.
 - (3) If a person collects an amount as if it were tax imposed under this Act or if a person who is not a collector collects an amount of tax imposed under this Act, the person must remit to the government the amount collected at the prescribed time and in the prescribed manner.

- (4) If a direct seller must remit to the government, at the prescribed time and in the prescribed manner, amounts of tax under section 99 (4) collected by the direct seller.

Collection of tax by independent sales contractor

- 180** (1) An independent sales contractor who sells an exclusive product to a purchaser must levy and collect the tax imposed under section 37 at the time the tax is payable in accordance with section 28.
- (2) An independent sales contractor of a direct seller who sells an exclusive product to another independent sales contractor of the direct seller in British Columbia must levy and collect the tax under section 99 (2) at the time the tax is payable in accordance with section 28.
- (3) Despite sections 179 (3) and 184, if an independent sales contractor has paid tax imposed under section 99 in respect of an exclusive product, the independent sales contractor may retain the amount collected under subsection (1) or (2) of this section.

Collection of tax under section 127

- 181** If a person referred to in section 127 (1) alleges that the person is exempt under section 127 (3) from tax imposed under that section in relation to a portion of the purchase price, a collector's obligation under section 179 (1) to levy and collect the tax is considered to be met,
- (a) if the collector has reason to believe that an estimate made under section 127 (4) in relation to the legal services is reasonable, by levying and collecting the amount of tax payable under section 127 in accordance with the estimate, or
- (b) if the collector has reason to believe that an estimate made under section 127 (4) in relation to the legal services is not reasonable, by
- (i) making a reasonable estimate, subject to the regulations, of that portion of the purchase price that relates to legal services referred to in section 127 (3) (b), and
- (ii) levying and collecting the tax payable under section 127 in accordance with the reasonable estimate made under subparagraph (i) of this paragraph.

Collection of tax on liquor sold under special occasion licence

- 182** (1) If tax is imposed under section 37 in relation to liquor sold under a special occasion licence by the holder of the licence, the holder of the licence must levy and collect the tax at the time the tax is payable in accordance with section 28.
- (2) Despite sections 179 (3) and 184, if the holder of the licence has paid or remitted all amounts payable by the holder under section 98 in respect of the liquor acquired for sale under the special occasion licence, the holder of the licence may retain the amount collected.

Duties of small seller

- 183** (1) Subject to section 182 (1), a small seller must not levy or collect tax under this Act.
- (2) A small seller must keep records as required by the regulations.

Tax collected deemed to be held in trust for government

- 184** If a person collects an amount of tax imposed under this Act or collects an amount as if it were tax imposed under this Act,

- (a) the person is deemed to hold the amount in trust for the government until the amount is remitted to the government at the time and in the manner required under this Act, and
- (b) the amount collected is deemed to be held separate from and does not form a part of the person's money, assets or estate, whether or not the amount collected has in fact been kept separate and apart from either the person's own money or the assets of the estate of the person who collected the amount.

Allowance for collection of tax

- 185**
- (1) Subject to the regulations, a registrant who remits tax to the government for a reporting period may deduct from the remittance and retain a prescribed allowance for that reporting period.
 - (2) Despite any other Act, a person retaining an allowance under this section is not, by retaining the allowance, made ineligible as a member of the Legislative Assembly of British Columbia.

Collector's returns

- 186**
- (1) The following persons must file with the director, at the prescribed time and in the prescribed manner, a return in a form specified by the director:
 - (a) a collector;
 - (b) a person, other than a collector, who collects an amount of tax imposed under this Act;
 - (c) a person who collects an amount as if it were tax imposed under this Act.
 - (2) At the time of filing a return under subsection (1), the person must submit to the director any information required by the director.

Certificate required for bulk transaction

- 187**
- (1) In this section, "**bulk transaction**" means any of the following:
 - (a) a disposition of substantially all of a collector's inventory in British Columbia;
 - (b) a disposition of substantially all of a collector's tangible personal property or software in British Columbia that is used in the collector's business carried on in British Columbia;
 - (c) a disposition of an interest in a collector's business carried on in British Columbia.
 - (2) If a person purchases tangible personal property, software or an interest in a business from a collector through a bulk transaction without obtaining from the collector a duplicate copy of the certificate obtained under subsection (3), the person must pay to the government an amount equal to the total of all amounts owing under this Act, at the time of purchase, by the collector.
 - (3) On application in a form and manner specified by the director, the director may issue a certificate in duplicate to a collector if all amounts owing under this Act by the collector have been paid.
 - (4) An amount payable under subsection (2) must be paid on or before the last day of the month after the month in which the person purchased the tangible personal property, the software or the interest in the business.

Prohibited advertising or other representations

- 188** A collector or an independent sales contractor must not, directly or indirectly, advertise or hold out or state to the public or to any purchaser or lessee that the tax or any part of it that must be levied and collected under this Act by the collector or independent sales contractor
- (a) will be assumed or absorbed by the collector or independent sales contractor,
 - (b) will not be considered as part of the amount payable by the purchaser or lessee, or
 - (c) will be refunded.

Liability satisfied if tax collected

- 189** (1) In this section, “**collector**” includes an independent sales contractor and a holder of a special occasion licence.
- (2) If a collector is required to levy and collect tax imposed under this Act, the liability of a person who is required to pay the tax is satisfied if the tax is collected by the collector.
- (3) If a collection agent, the Insurance Corporation of British Columbia or a jurisdiction prescribed for the purposes of section 70 (2) collects tax imposed under this Act, the liability of a person who is required to pay the tax is satisfied.

Payment first applied against tax payable

- 190** (1) In this section, “**collector**” includes an independent sales contractor and a holder of a special occasion licence.
- (2) If a collector levies a tax imposed under this Act in respect of a purchase or lease of tangible personal property or a purchase of software or a taxable service, any amount paid to the collector in respect of the purchase or lease is deemed to be first applied against the tax payable in respect of that purchase or lease.

Agreement with federal government

- 191** (1) The minister may, on behalf of the government, enter into an agreement with the government of Canada or an agent of the government of Canada respecting the administration and enforcement of this Act in respect of tangible personal property that is
- (a) brought or sent into British Columbia from outside Canada by a resident taxpayer, or
 - (b) delivered in British Columbia from outside Canada to a resident taxpayer.
- (2) An agreement entered into under subsection (1) must specify the circumstances under which the collection agent may require that a resident taxpayer claiming an exemption from tax must nevertheless pay the tax to the collection agent.
- (3) An agreement entered into under subsection (1) may authorize payment to the government of Canada or the agent of the government of Canada in respect of services provided under the agreement.
- (4) Payments in respect of the ongoing costs of services provided under the agreement entered into under subsection (1) may be retained by the government of Canada or the agent of the government of Canada out of the amounts collected on behalf of the government of British Columbia.
- (5) The minister may pay from the consolidated revenue fund any amount payable by the government under the agreement entered into under subsection (1).

- (6) The government of Canada or the agent of the government of Canada may, as agent of the government of British Columbia, act in accordance with the agreement entered into under subsection (1) to
- (a) collect tax owing in respect of tangible personal property that is released by a collection agent without payment of all or part of the tax imposed under Division 5 [*Property Brought into British Columbia from Outside Canada*] of Part 3, and
 - (b) refund an amount charged or collected by a collection agent that is in excess of the amount of tax payable in respect of the tangible personal property.

Division 3 — Taxpayer Returns

When a person must file a taxpayer return

- 192** (1) A person who is not a registrant must file a taxpayer return with the director if the person must pay tax imposed under any of the following sections:
- (a) section 41 [*tax if leased property used in and outside British Columbia during rental period*];
 - (b) section 51 [*tax if tangible personal property brought into British Columbia for temporary use*];
 - (b.1) section 51.1 [*tax if tangible personal property no longer for temporary use*];
 - (c) section 60 [*tax if conveyance purchased in British Columbia for interjurisdictional use*];
 - (d) section 61 [*tax if sale and lease-back of conveyance*];
 - (e) section 62 [*tax if conveyance leased in British Columbia*];
 - (f) section 63 [*tax if conveyance brought into and used in British Columbia*];
 - (g) section 64 [*tax if change in use of conveyance acquired for resale*];
 - (h) section 66 [*adjustment of tax*];
 - (i) section 71 [*adjustment of tax under section 69*];
 - (i.1) section 80.5 [*tax on tangible personal property used by contractor to improve real property*];
 - (i.2) section 80.7 [*tax on tangible personal property incorporated into property subject to tax under the New Housing Transition Tax and Rebate Act*];
 - (i.3) section 80.8 [*tax on mobile homes affixed to land situated in British Columbia*];
 - (j) section 81 [*tax if change in use of property acquired for resale*];
 - (k) section 82 [*tax if property used for new purpose*];
 - (k.1) section 82.1 [*tax on parts if property containing parts used for new purpose*];
 - (k.2) section 82.2 [*tax if conditions for exemption not maintained for specified period*];
 - (l) section 83 [*tax if change in use of property acquired for lease*];
 - (m) section 84 [*tax if change in use of resulting tangible personal property*];
 - (m.1) section 84.1 [*tax if dealer or manufacturer change use of motor vehicle*];
 - (n) section 85 [*tax if change in use of prototype*];
 - (o) [Repealed 2013]
 - (p) section 87 [*tax if recording exhibited*];

- (p.1) section 102 *[tax on leased property occasionally supplied with operator]*;
 - (p.2) section 106 *[tax on use of software on device in British Columbia]*;
 - (q) section 107 *[tax on business use of software on devices in and outside British Columbia]*;
 - (r) section 108 *[adjustment of tax under section 107]*;
 - (s) section 109 *[tax if use of software changes]*;
 - (t) section 110 *[tax if change in use of resulting software or tangible personal property]*;
 - (u) [Repealed]
 - (u.1) section 117.1 *[tax if resulting property used for new purpose]*;
 - (v) section 120 *[tax if related service provided outside British Columbia]*;
 - (v.1) section 120.1 *[tax if change in use of related service]*;
 - (v.2) section 123.2 *[tax if change in use of accommodation acquired for resale]*;
 - (w) section 133 *[tax if motion picture exhibited]*.
- (2) A person must file a taxpayer return with the director if the person must pay tax imposed under section 69 *[tax if multijurisdictional vehicle licensed]* in accordance with section 70 (1) (b).
- (3) A person must file a taxpayer return with the director if the person must pay tax imposed under any of the following sections:
- (a) section 86 *[tax if change in use of property for which refund received under taxation agreement]*;
 - (b) section 111 *[tax if change in use of software for which refund received under taxation agreement]*.

Taxpayer return

- 193**
- (1) A taxpayer return must be in a form specified by the director.
 - (2) If a person must file a taxpayer return in relation to tax imposed under this Act, the person must file the taxpayer return at or before the prescribed time and in the prescribed manner.
 - (3) At the time of filing a taxpayer return, the person must submit to the director any information required by the director.

PART 9 — ADMINISTRATION AND ENFORCEMENT

Division 1 — Inspections and Audits

Inspection and audit powers

- 194**
- (1) In this section, “**specified location**” means premises, a site, a vehicle, a boat, an aircraft or any other place or thing
 - (a) occupied or used by a person in relation to a business carried on by the person,
 - (b) where or in which the records of a person are kept, or
 - (c) at, in or from which
 - (i) tangible personal property is manufactured, sold, leased, stored or used,

- (ii) software is developed, sold, stored or used, or
 - (iii) a taxable service is provided, sold or used.
- (2) Except as limited by subsections (4) and (6), to determine whether this Act and the regulations are being or have been complied with, the director may enter at any reasonable time a specified location, occupied by a person, and may do any of the following at the specified location:
 - (a) inspect, audit and examine records;
 - (b) inspect tangible personal property manufactured, acquired, sold, leased, stored or used by the person;
 - (c) inspect software developed, provided, acquired or sold by the person;
 - (d) inspect a related service or a telecommunication service provided, acquired or sold by the person;
 - (e) inspect accommodation offered or available for sale, provided, acquired, sold or used by the person;
 - (f) inspect or ascertain the quantity, value or use of tangible personal property manufactured, acquired, sold, leased, stored or used by the person;
 - (g) inspect or ascertain the volume, value or use of software developed, provided, acquired, sold, stored or used by the person;
 - (h) inspect or ascertain the volume, value or use of a related service or a telecommunication service provided, acquired, sold, stored or used by the person;
 - (i) inspect or ascertain the volume, value or use of accommodation offered or available for sale, provided, acquired, sold or used by the person;
 - (j) inspect the specified location and any activities carried out at the specified location.
- (3) A person occupying a specified location must
 - (a) produce all records as may be required by the director, and
 - (b) answer all questions of the director regarding the matters referred to in subsection (2).
- (4) The power to enter a place under subsection (2) must not be used to enter a dwelling occupied as a residence without the consent of the occupier except under the authority of a warrant under subsection (5).
- (5) On being satisfied by evidence on oath that there are in a place records or other things for which there are reasonable grounds to believe that they are relevant to the matters referred to in subsection (2), a justice may issue a warrant authorizing a person named in the warrant to enter the place in accordance with the warrant in order to exercise the powers referred to in subsection (2) (a) to (j).
- (6) Except in accordance with the regulations, the power to inspect, audit and examine records under subsection (2) (a) must not be used to inspect, audit and examine a record that is in the possession of a lawyer if the lawyer at that time claims that a particular client or a particular former client of the lawyer has solicitor-client privilege in relation to the record.
- (7) A person must not
 - (a) interfere with, hinder or molest a person doing anything that the person is authorized to do under this section, or

- (b) prevent or attempt to prevent a person from doing anything that the person is authorized to do under this section.

Requirement to provide records

- 195** When required by the director, a person must provide to the director all records that the director considers necessary to determine whether this Act and the regulations are being or have been complied with.

Demand for information

- 196** (1) For any purpose related to the administration or enforcement of this Act or the regulations, the director may, by demand notice, require from any person
- (a) a return under this Act,
 - (b) any information or additional information,
 - (c) the production of any records, or
 - (d) a written statement.
- (2) A demand notice under subsection (1)
- (a) must be delivered to the person by personal service, registered mail, electronic mail or fax,
 - (b) must specify a reasonable time by which the person must comply with the demand notice, and
 - (c) in relation to a requirement under subsection (1) (d), may require the written statement to be made by way of affidavit or statutory declaration.
- (3) A person to whom a demand notice is delivered under this section must comply with the notice within the time specified in the notice.
- (4) An affidavit by the director in which are stated the facts necessary to establish
- (a) compliance by the director with this section, or
 - (b) default by a person on whom a demand was made under this section
- must be admitted as evidence in any court and is proof, in the absence of evidence to the contrary, of the facts stated.

Evidence – copies of records

- 196.1** A record certified by the director to be a copy of a record obtained by the director under this Act is evidence of the nature and content of the original.

Division 2 — Assessments

Notice of assessment

- 197** (1) Subject to subsection (3), the director must issue a notice of assessment to the person liable to pay an amount assessed or imposed if the director
- (a) makes an assessment under section 198 [*assessment of tax not remitted by collector*], 199 [*assessment if tax not paid or remitted or if excess refund*] or 210 [*assessment against board member*], or
 - (b) imposes a penalty under section 202 [*failure to register*], 203 [*failure to collect tax*], 204 [*incorrect information*] or 205 [*failure to remit or pay tax*].

- (2) If the director assesses interest under section 206, the director may issue a notice of assessment to the person liable to pay the amount of interest assessed.
- (3) In addition to, or as an alternative to, issuing a notice of assessment under subsection (1) or (2), the director may issue a notice of assessment to the custodian or trustee in bankruptcy of the person referred to in subsection (1) or (2).
- (4) Evidence that a notice of assessment under subsection (1) or (2) has been issued is proof, in the absence of evidence to the contrary, that the amount assessed or imposed under this Act is due and owing, and the onus of proving otherwise is on the person liable to pay the amount assessed or imposed.
- (5) Subject to being amended, changed or varied on appeal or by reassessment, an assessment or penalty made or imposed under this Act is valid and binding despite any error, defect or omission in the assessment or penalty or in procedure.

Assessment of tax not remitted by collector

- 198** If a collector fails to file a collector's return as required under this Act or if the records of a collector do not substantiate a collector's return filed by the collector, the director may
- (a) estimate, in a manner and by a procedure the director considers adequate and expedient, the amount of tax that a collector was required to remit under section 179 but has not remitted, and
 - (b) make an assessment against the collector for the amount estimated under paragraph (a).

Assessment if tax not paid or remitted or if excess refund

- 199**
- (1) If it appears from an inspection, audit or examination or from other information available to the director that a person has not paid the taxes the person is liable to pay as required under this Act, the director may
 - (a) calculate, in a manner and by a procedure the director considers adequate and expedient, the tax not paid, and
 - (b) make an assessment against the person for the amount calculated under paragraph (a).
 - (2) If it appears from an inspection, audit or examination or from other information available to the director that a person has levied tax or collected an amount as if it were tax and the person has not remitted the tax or the amount collected as required under this Act, the director must
 - (a) calculate, in a manner and by a procedure the director considers adequate and expedient, the tax or amount not remitted, and
 - (b) make an assessment against the person for the tax or amount calculated under paragraph (a).
 - (3) If it appears from an inspection, audit or examination or from other information available to the director that a person has received a refund of tax under this Act or has deducted an amount under section 159 (3) [*refund or deduction for bad debts*] or 160 (2) [*refund to collector*] that was in excess of the refund amount that was due to the person, the director must
 - (a) calculate, in a manner and by a procedure the director considers adequate and expedient, the excess amount refunded or deducted, and

- (b) make an assessment against the person in an amount equal to the amount calculated under paragraph (a) of this subsection.
- (4) If it appears from an inspection, audit or examination or from other information available to the director that a person has not paid an amount required to be paid under section 187 (2) [*certificate required for bulk transaction*], the director must
 - (a) calculate, in a manner and by a procedure the director considers adequate and expedient, the amount required to be paid under that section, and
 - (b) make an assessment against the person in an amount equal to the amount calculated under paragraph (a) of this subsection.
- (5) If it appears from an inspection, audit or examination or from other information available to the director that a person has not paid an amount required to be paid under section 222 (4) [*responsibility of person having control of property*], the director must
 - (a) calculate, in a manner and by a procedure the director considers adequate and expedient, the amount required to be paid under that section, and
 - (b) make an assessment against the person in an amount equal to the amount calculated under paragraph (a) of this subsection.

Assessment period under sections 198 and 199

- 200**
- (1) In making an assessment under section 198 or 199, the director must not include a period longer than 4 years before the date of the first notice of assessment.
 - (2) Despite subsection (1), the director may enter into a written agreement with a person in which the person waives subsection (1) and allows the director, in making an assessment under section 198 or 199, to include any period specified in the agreement.
 - (3) Despite subsections (1) and (2), in making an assessment under section 198 or 199, the director may include any period if the assessment relates to a contravention, of this Act or the regulations, involving wilful default or fraud.

Anti-avoidance rule

- 201**
- (1) In this section:
 - “**avoidance transaction**” means a transaction
 - (a) that, but for this section, would result, directly or indirectly, in a tax benefit, or
 - (b) that is part of a series of transactions that, but for this section, would result, directly or indirectly, in a tax benefit,
- but does not include a transaction that may reasonably be considered
- (c) to have been undertaken or arranged primarily for bona fide purposes other than for one or more of the following:
 - (i) to obtain a tax benefit;
 - (ii) to reduce, avoid or defer a tax, or another amount payable as or in respect of tax, under a law of Canada or another province;
 - (iii) to increase a refund of tax, or of another amount in respect of tax, under a law of Canada or another province, or
 - (d) to be a transaction that would not result, directly or indirectly, in
 - (i) a misuse of the provisions of this Act or the regulations, or

(ii) an abuse having regard to those provisions, other than this section, read as a whole;

“**tax benefit**” means

- (a) a reduction, avoidance or deferral of tax, or of another amount, payable under this Act, or
- (b) an increase in a refund of tax, or of another amount, under this Act;

“**tax consequences**”, in relation to a person, means any amount of tax or another amount that is payable or refundable to the person under this Act or that is relevant for the purposes of calculating that amount;

“**transaction**” includes an arrangement or event.

- (2) For the purposes of this section, a series of transactions is deemed to include any related transactions completed in contemplation of the series.
- (3) If a transaction is an avoidance transaction, the director may determine the tax consequences to a person in a manner that is reasonable in the circumstances in order to deny a tax benefit that, but for this section, would result, directly or indirectly, from that transaction or from a series of transactions that includes that transaction.
- (4) Without limiting subsection (3), in determining the tax consequences to a person in a manner that is reasonable in the circumstances in order to deny a tax benefit that, but for this section, would result, directly or indirectly, from an avoidance transaction, the director may do one or both of the following:
 - (a) recharacterize the nature of a payment or other amount;
 - (b) ignore the tax effects that would otherwise result from the application of other provisions of this Act or the regulations.
- (5) The tax consequences to a person, after the application of this section, must be determined only through an assessment made under section 199 or a penalty imposed under section 203.

Division 3 — Penalties and Interest

Failure to register

202 If the director is satisfied that a person wilfully contravened section 169 [*vendors and lessors must be registered*], 170 [*contractor must be registered*], 171 [*direct seller must be registered*] or 172 [*person located in Canada but outside British Columbia must be registered*], in addition to imposing any other penalty under this Act, the director may impose on the person a penalty equal to 25% of the amount

- (a) collected and remitted under this Act by the person for the period that person was not registered under section 168 as required under this Act, or
- (b) calculated by the director, in a manner and by a procedure the director considers adequate and expedient, as the amount of tax not remitted by the person as required under this Act.

Failure to levy tax

- 203**
- (1) If it appears from an inspection, audit or examination or from other information available to the director that a collector has not levied tax as required under this Act, the director must
 - (a) calculate, in a manner and by a procedure the director considers adequate and expedient, the tax not levied, and
 - (b) impose on the collector a penalty equal to the amount calculated under paragraph (a).
 - (2) Money paid by a person to the government in respect of a penalty imposed under subsection (1) satisfies to the extent of the payment the original liability of the person who is required to pay the tax.
 - (2.1) A collector who has paid an amount imposed under subsection (1) may, in a court of competent jurisdiction, sue the person who was liable to pay the tax in order to recover an amount that may not exceed the difference between the amount imposed under subsection (1) and the amount of tax that was not levied as required by the collector under this Act but was paid under this Act by the person.
 - (2.2) The collector may retain any amount recovered in the legal proceeding referred to in subsection (2.1) as compensation for the amount paid under subsection (1).
 - (3) In imposing a penalty under subsection (1), the director must not impose a penalty in respect of
 - (a) a period that begins more than 4 years before the date of the first notice of assessment,
 - (b) a continuous period longer than 3 years, and
 - (c) more than one continuous period in the 4-year period referred to in paragraph (a).
 - (4) Despite subsection (3), the director may enter into a written agreement with a person in which the person waives subsection (3) and allows the director, in imposing a penalty under this section, to include any period specified in the agreement.
 - (5) Despite subsections (3) and (4), in imposing a penalty under this section, the director may include any period if the penalty is imposed as a result of a contravention, of this Act or the regulations, involving wilful default or fraud.

Incorrect information

- 204**
- (1) In prescribed circumstances, the director must impose on a person who has declared incorrect information in a declaration required under the regulations in relation to an exemption claimed by another person under a prescribed section of the regulations a penalty equal to the amount of tax that was not paid in reliance on the declaration.
 - (2) If the director has imposed a penalty under subsection (1), the director may not make an assessment under section 199 (1) [*assessment if tax not paid or remitted or if excess refund*] against the person who claimed the exemption in reliance on the declaration provided by the person on whom the penalty under subsection (1) of this section was imposed.
 - (3) In imposing a penalty under this section, the director must not include a period longer than 4 years before the date of the first notice of assessment.

- (4) Despite subsection (3), the director may enter into a written agreement with a person in which the person waives subsection (3) and allows the director, in imposing a penalty under this section, to include any period specified in the agreement.
- (5) Despite subsections (3) and (4), in imposing a penalty under this section, the director may include any period if the penalty is imposed as a result of a contravention, of this Act or the regulations, involving wilful default or fraud.

Failure to remit or pay tax

- 205** In addition to imposing any other penalty under this Act, the director may do any of the following:
- (a) if the director is satisfied that a person who collected tax or an amount as if it were tax wilfully failed to remit the tax or amount collected as required under this Act, impose on the person a penalty equal to 100% of the amount not remitted;
 - (b) in any case other than a case referred to in paragraph (a), if the director is satisfied that a person evaded the payment of tax as required under this Act by wilfully making a false or deceptive statement or by wilful default or fraud, impose on the person a penalty equal to 25% of the amount evaded;
 - (c) in any case other than a case referred to in paragraph (a) or (b), if the director is satisfied that a person failed to remit or pay any amount as required under this Act, impose on the person a penalty equal to 10% of the amount not remitted or paid.

Interest on amount payable

- 206** The director may, at any time, assess interest, calculated at the rate and in the manner prescribed, on the amount owing to the government under this Act.

Division 4 — Board Member's Liability

Board member's liability

- 207** (1) Subject to this section, if a corporation has failed to levy, collect or remit taxes as required under this Act, a board member of the corporation is jointly and severally liable with that corporation to pay an amount equal to the taxes that the corporation failed to levy, collect or remit during the term of the board member, and any penalties and interest on that amount.
- (2) A board member is not liable under subsection (1) unless one of the following has occurred:
- (a) a certificate has been filed under section 218 [*summary proceedings*] with respect to the amount the corporation is liable to pay under this Act;
 - (b) the corporation has been dissolved or has commenced liquidation or dissolution proceedings in any jurisdiction;
 - (c) the corporation has, under the *Bankruptcy and Insolvency Act* (Canada),
 - (i) made an assignment in bankruptcy,
 - (ii) filed a notice of intention to make a proposal with the official receiver, or
 - (iii) made a proposal under Division 1 of Part III of that Act;
 - (d) a bankruptcy order has been made against the corporation under the *Bankruptcy and Insolvency Act* (Canada);

- (e) the corporation has obtained a court order granting a stay of proceedings under section 11.02 of the *Companies' Creditors Arrangement Act* (Canada);
 - (f) the corporation has been or is subject in any jurisdiction to a proceeding of a similar nature to a proceeding referred to in paragraphs (c) to (e).
- (3) A board member is not liable under subsection (1) if the board member exercised the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances to prevent the corporation's failure to levy, collect or remit taxes as required under this Act.

Refunds when joint and several liability

- 208** (1) Despite section 152 (2) [*refund if no obligation to pay or collect*] or any regulation that requires the payment of a refund of amounts collected to a corporation, if the director is satisfied that the total of the amount paid by one or more board members of the corporation who are jointly and severally liable with the corporation under section 207 (1) and the amount, if any, paid by the corporation exceeds the amount owed by the corporation under this Act for the period that the board members who made the payments were jointly and severally liable with the corporation, the director must pay a refund from the consolidated revenue fund in accordance with the following:
- (a) if only one board member paid all or part of the amount for which one or more board members and the corporation were jointly and severally liable under section 207 (1), refund to the board member the amount of the excess, up to the amount paid by the board member;
 - (b) if 2 or more board members paid the amount or a part of the amount for which board members and the corporation were jointly and severally liable under section 207 (1), refund to the board members the amount of the excess divided proportionately between the board members, up to the amount paid by each board member;
 - (c) after making the payment under paragraph (a) or (b), refund to the corporation any remaining amount of the excess, up to the amount paid by the corporation.
- (2) A refund under subsection (1) (b) must be based on the ratio of the amounts paid by the board members who are jointly and severally liable under section 207 (1) for the applicable period of the refund.
- (3) A refund may be paid under subsection (1) only to a board member who or corporation that has applied for a refund.

Deemed board member

- 209** (1) If the director has reason to believe that a person who was not a member of the board of directors of a corporation performed some or all of the functions of a member of the board of directors of the corporation, the director may request the person and the corporation to provide to the director the records and information required by the director to confirm or rebut that belief.
- (2) Subject to subsection (3), the director may determine that a person performed some or all of the functions of a member of the board of directors of a corporation if
- (a) the person who or the corporation that has been requested to provide records or information to the director under subsection (1) fails or refuses to comply with the

- request within a period of time considered by the director to be reasonable in the circumstances, or
- (b) the records or information provided to the director under this subsection confirms that the person performed some or all of the functions of a member of the board of directors of the corporation.
- (3) The director must not determine under subsection (2) (b) that a person performed some or all of the functions of a member of the board of directors of the corporation if the determination is based solely on
- (a) the person participating in the corporation's management under the direction or control of a shareholder, one or more members of the board of directors or a senior officer of the corporation,
- (b) the person being a lawyer, accountant or other professional whose primary participation in the management of the corporation was the provision of professional services to the corporation,
- (c) the corporation being bankrupt and the person being a trustee in bankruptcy who participates in the management of the corporation or exercises control over its property, rights and interests primarily for the purposes of the administration of the bankrupt's estate, or
- (d) the person being a receiver, receiver manager or secured creditor who participates in the management of the corporation or exercises control over any of its property, rights and interests primarily for the purposes of enforcing a debt obligation of the corporation.
- (4) Subject to subsection (5), if the director determines under subsection (2) that a person performed some or all of the functions of a member of the board of directors of a corporation, the person is deemed to be a board member of the corporation for the purposes of this Act for a term that equals the period the person performed those functions.
- (5) Subsection (4) does not apply to sections 165 (2) [*claim for refund*] and 233 [*offence by corporation*].
- (6) Immediately after the director makes a determination under subsection (2), the director must notify in writing the person to whom the determination relates and the corporation of this determination.

Assessment against board member

- 210** (1) If the director decides that a board member is jointly and severally liable for an amount under section 207 (1), the director may assess the board member for the following:
- (a) the amount assessed under section 198 [*assessment of tax not remitted by collector*] against the corporation as the tax the corporation was required to remit during the term of the board member, any related penalty and any interest on that amount and the penalty;
- (b) the amount assessed under section 199 (2) [*assessment if tax not paid or remitted or if excess refund*] against the corporation for the corporation's failure to remit tax as required during the term of the board member, any related penalty and any interest on that amount and the penalty;

- (c) the amount imposed under section 203 [*failure to collect tax*] on the corporation for the corporation's failure to levy tax as required during the term of the board member, any related penalty and any interest on that amount and the penalty.
- (2) The director may not make an assessment under subsection (1) in respect of the liability of a board member under section 207 if
 - (a) the person is no longer a board member of that corporation, and
 - (b) it is more than 2 years after the last date that the person was a board member of that corporation.

PART 10 — APPEALS

Appeal to minister

- 211** (1) An appeal to the minister lies from a decision of the director about any of the following:
- (a) a determination under section 221 (12) [*associated corporations*];
 - (b) a refund of tax paid or remitted under this Act;
 - (c) a refusal to register a person under section 168 [*registration*];
 - (d) a suspension or cancellation of a person's registration under section 173 [*suspension or cancellation of registration*];
 - (e) an assessment under any of the following:
 - (i) section 198 [*assessment of tax not remitted by collector*];
 - (ii) section 199 [*assessment if tax not paid or remitted or if excess refund*];
 - (iii) section 206 [*interest on amount payable*];
 - (iv) section 210 [*assessment against board member*];
 - (f) an imposition of a penalty under any of the following:
 - (i) section 202 [*failure to register*];
 - (ii) section 203 [*failure to collect tax*];
 - (iii) section 204 [*incorrect information*];
 - (iv) section 205 [*failure to remit or pay tax*].
- (2) An appeal to the minister lies from a decision to disallow a refund applied for under section 57 [*tax payable to collection agent even though exemption claimed*].
- (3) Written notice of the appeal must be served on the minister within 90 days after the date of the director's notice of decision.
- (4) The appellant must set out in the notice of appeal a statement of all material facts and the reasons in support of the appeal.
- (5) On receiving the notice of appeal, the minister must
- (a) consider the matter,
 - (b) subject to subsection (6), affirm, amend or change the assessment, decision, amount imposed or nature of the assessment, and
 - (c) promptly notify the appellant in writing of the result of the appeal.
- (6) If an appeal relates to a matter referred to in subsection (1) (c), the minister may

- (a) affirm the decision of the director, or
- (b) direct the director to reconsider the application for registration under section 168.

Appeal to court

- 212**
- (1) A decision of the minister under section 211 may be appealed to the Supreme Court by way of a petition proceeding.
 - (2) The Supreme Court Civil Rules relating to petition proceedings apply to appeals under this section, but Rule 18-3 of those rules does not apply.
 - (3) A petition must be filed in the court registry within 90 days after the date on the minister's notice of decision.
 - (4) In the petition filed under subsection (3), the government must be designated "Her Majesty the Queen in right of the Province of British Columbia".
 - (5) Within 14 days after the filing of the petition under subsection (3), the petition must be served on the government in accordance with section 8 of the *Crown Proceeding Act*.
 - (6) An appeal under this section is a new hearing that is not limited to the evidence and issues that were before the minister.
 - (7) The court may
 - (a) dismiss the appeal,
 - (b) allow the appeal,
 - (c) vary the decision from which the appeal is made, or
 - (d) refer the decision back to the director for reconsideration.
 - (8) An appeal lies from a decision of the court to the Court of Appeal with leave of a justice of the Court of Appeal.

Irregularities

- 213** An assessment made, or a penalty imposed, under this Act by the director must not be varied or disallowed by a court because of an irregularity, informality, omission or error on the part of a person in the observation of any directory provision up to the date of the issuing of the notice of assessment.

Tax collection not affected by pending appeal

- 214** Neither the giving of a notice of appeal by a person nor a delay in the hearing of an appeal
- (a) affects the date an amount, that is owing to the government under this Act and that is the subject matter of the appeal, is payable or required to be remitted under this Act,
 - (b) affects the amount of interest payable on an amount that is owing to the government under this Act and that is the subject matter of the appeal, or
 - (c) delays the collection of an amount that is owing to the government under this Act and that is the subject matter of the appeal, or any interest payable under this Act on that amount.

If decision set aside or amount reduced or increased on appeal

- 215** (1) If the director's or the minister's decision is set aside, or the amount of an assessment or an amount imposed is reduced on appeal, the director must refund to the appellant from the consolidated revenue fund
- (a) the amount or excess amount paid, and
 - (b) any additional interest paid.
- (2) If the amount of an assessment or an amount imposed is increased on appeal, the appellant must pay to the government
- (a) the additional amount owing to the government under this Act, and
 - (b) any additional interest payable on the additional amount owing to the government under this Act.

PART 11 — RECOVERY OF AMOUNTS OWING

Collection bond

- 216** (1) The director may require an applicant, as defined in section 168, or a registrant to deposit with the director a bond, by way of cash or other security satisfactory to the director.
- (2) The amount of the bond is to be determined by the director, but the amount must not be greater than 6 times the estimated amount, determined in a manner and by a procedure the director considers adequate and expedient, of
- (a) tax that would normally be levied under this Act by the person in a month, and
 - (b) tax that would normally be paid under this Act by the person in a month.
- (3) If a person who has deposited a bond under subsection (1) fails to levy, remit or pay tax in accordance with this Act, the director, after giving written notice to the person, may apply all or part of the bond to the amount of tax that should have been levied, remitted or paid by the person, to any related penalty and to any interest on that amount and the penalty.
- (4) The director may return a bond deposited under subsection (1), or may pay from the consolidated revenue fund an amount equal to the amount remaining of a bond deposited under subsection (1), to the person who deposited the bond if
- (a) the person has ceased being a registrant, and
 - (b) the person as a registrant has no amount owing to the government under this Act.

Court proceeding to recover amount owing

- 217** The government may commence a proceeding in a court of competent jurisdiction to recover an amount owing to the government under this Act as a debt due to the government.

Summary proceedings

- 218** (1) If a person fails to pay or remit an amount owing to the government under this Act, the director may issue a certificate specifying the amount owed and the name of the person who owes it.
- (2) The director may file with the Supreme Court a certificate issued under subsection (1).

- (3) A certificate filed under subsection (2) has the same effect and is enforceable in the same manner as a judgment of the court in favour of the government for the recovery of a debt in the amount specified in the certificate against the person named in the certificate.
- (4) If the amount specified in a certificate is different from the actual amount owing to the government under this Act, the director may correct the amount by issuing a new certificate specifying the revised amount owed and the name of the person who owes it.
- (5) The director may file with the Supreme Court a certificate issued under subsection (4).
- (6) A certificate filed under subsection (5)
 - (a) revises the certificate filed under subsection (2) that names the same person,
 - (b) is deemed to be filed at the same time as the certificate it revises, and
 - (c) has the same effect and is enforceable in the same manner as a judgment of the court in favour of the government for the recovery of a debt in the amount specified in the certificate against the person named in the certificate.

Alternative remedies

- 219**
- (1) Remedies available to the government for the recovery of an amount owing to the government under this Act may be exercised separately, concurrently or cumulatively.
 - (2) The liability of a person for the payment of an amount owing to the government under this Act is not affected by a fine or penalty imposed on or paid by the person for contravention of this Act.

Attachment of funds

- 220**
- (1) In this section, “**taxpayer**” means any person who is liable to pay or remit to the government an amount under this Act.
 - (2) If the director knows or suspects that a person is or is about to become indebted or liable to make a payment to a taxpayer, the director may demand that that person pay to the government on account of the taxpayer’s liability under this Act all or part of the money otherwise payable to the taxpayer.
 - (3) Without limiting subsection (2), if the director knows or suspects that a person is about to advance money to or make a payment on behalf of a taxpayer, or make a payment in respect of a negotiable instrument issued by a taxpayer, the director may demand that that person pay to the government on account of the taxpayer’s liability under this Act the money that would otherwise be advanced or paid.
 - (4) A demand under this section may be served by personal service, registered mail, electronic mail or fax.
 - (5) If under this section the director demands that a person pay to the government, on account of a taxpayer’s liability under this Act, money otherwise payable by that person to the taxpayer as interest, rent, remuneration, a dividend, an annuity or other periodic payment, the demand
 - (a) is applicable to all of those payments to be made by the person to the taxpayer until the liability under this Act is satisfied, and
 - (b) operates to require payments to the government out of each payment of the amount stipulated by the director in the demand.

- (6) Money or a beneficial interest in money in a savings institution
- (a) on deposit to the credit of a taxpayer at the time a demand is served, or
 - (b) deposited to the credit of a taxpayer after a demand is served
- is money for which the savings institution is indebted to the taxpayer within the meaning of this section, but money on deposit or deposited to the credit of a taxpayer as described in paragraph (a) or (b) does not include money on deposit or deposited to the credit of a taxpayer in the taxpayer's capacity as a trustee.
- (7) A demand under this section continues in effect until the earliest of the following:
- (a) subject to paragraphs (b) and (c), the demand is satisfied;
 - (b) subject to paragraph (c), 90 days after the demand is served;
 - (c) three years after the demand is served, if the demand is made in respect of an outstanding legal claim or insurance claim that, if resolved in the taxpayer's favour, will result in money becoming available to the taxpayer.
- (8) Despite subsection (7), if a demand is made in respect of a periodic payment referred to in subsection (5), the demand continues in effect until it is satisfied unless no periodic payment is made or is liable to be made within 90 days after the demand is served, in which case the demand ceases to have effect at the end of that period.
- (9) Money demanded from a person by the director under this section becomes payable
- (a) as soon as the person is served with the demand, if that person is indebted or liable to make a payment to the taxpayer at the time the demand is served, or
 - (b) as soon as the person becomes indebted or liable to make a payment to the taxpayer, in any other case.
- (10) A person who fails to comply with a demand under subsection (2) or (5) is liable to pay to the government an amount equal to the amount that the person was required to pay under subsection (2) or (5).
- (11) A person who fails to comply with a demand under subsection (3) is liable to pay to the government an amount equal to the lesser of
- (a) the total of the money advanced or paid, and
 - (b) the amount that the person was required to pay under subsection (3).
- (12) Money paid by any person to the government in compliance with a demand under this section
- (a) satisfies the original liability to the extent of the payment, and
 - (b) is deemed to have been paid by that person to the taxpayer.

Lien

221

- (1) In this section:
- “**amount owing**” means an amount remaining unpaid or unremitted, any related penalty and any interest on that amount and the penalty;
 - “**associated corporation**” includes a corporation that is determined under subsection (12) to be associated with another corporation for the purposes of this section;
 - “**collateral**” has the same meaning as in the *Personal Property Security Act*;

- “financing statement”** has the same meaning as in the *Personal Property Security Act*;
- “inventory”** has the same meaning as in the *Personal Property Security Act*;
- “personal property registry”** means the registry under the *Personal Property Security Act*;
- “proceeds”** has the same meaning as in the *Personal Property Security Act*;
- “property”**, when referring to the property of an associated corporation or a related individual, means property that is used in, or in conjunction with, the business in respect of which the taxes referred to in subsection (2) are required to be collected and remitted;
- “purchase money security interest”** has the same meaning as in the *Personal Property Security Act*;
- “security interest”** has the same meaning as in the *Personal Property Security Act*.
- (2) If a person is required to pay or remit an amount to the government under this Act and does not pay or remit the amount, the director may register a lien
- (a) against the real property of
 - (i) the person,
 - (ii) an associated corporation of the person, or
 - (iii) a related individual of the personby registering a certificate of lien in the prescribed form in the appropriate land title office in the same manner that a charge is registered under the *Land Title Act*, and
 - (b) against the personal property of
 - (i) the person,
 - (ii) an associated corporation of the person, or
 - (iii) a related individual of the personby registering a financing statement in the personal property registry.
- (3) On registration of a certificate of lien against the real property of a person under subsection (2) (a), a lien is created on the real property against which the lien is registered for the amount owing.
- (4) On registration of a lien against the personal property of a person under subsection (2) (b), a lien is created on the present and after acquired personal property in which the person has a legal or equitable interest, including, in the case of a lien referred to in paragraph (a) of this subsection, any portion of the property that is subject to a prior lien or security interest, for the following:
- (a) if the lien relates to taxes that were required to be levied and collected before registration, the amount of those taxes remaining uncollected and unremitted, any related penalty and any interest on that amount and the penalty;
 - (b) if the lien relates to taxes that were collected, or an amount collected as if it were tax, but not remitted before registration, the amount remaining unremitted, any related penalty and any interest on that amount remaining unremitted and the penalty;
 - (c) if the lien relates to taxes that were required to be paid before registration, the amount of those taxes remaining unpaid, any related penalty and any interest on that amount and the penalty.

- (5) Subject to subsections (6) and (7), a lien, other than a lien referred to in subsection (4) (c), that is registered under subsection (2) (b) against personal property
- (a) is not limited to the equity that the person against whose personal property the lien is registered has in the personal property, and
 - (b) despite the provisions of any other enactments, has priority over a security interest or other lien, whether or not the security interest or other lien existed before the lien was registered under subsection (2) (b).
- (6) A lien registered under subsection (2) (b) against personal property does not have priority over
- (a) a security interest that secures unpaid wages under section 87 (3) of the *Employment Standards Act*, regardless of when that security interest arises, or
 - (b) a purchase money security interest in collateral other than collateral that at the time the purchase money security interest attaches is inventory or its proceeds.
- (7) If
- (a) one or more liens are registered under subsection (2) (b) against the personal property of a person, and
 - (b) the property referred to in paragraph (a) of this subsection is subject to
 - (i) a security interest perfected under the *Personal Property Security Act* before the registration of the first lien under subsection (2) (b), or
 - (ii) another lien created before the registration of the first lien under subsection (2) (b),
- the total amount secured by all the liens registered under subsection (2) (b), other than liens referred to in subsection (4) (c), is limited in amount, with respect to all the prior security interests or other liens referred to in paragraph (b) of this subsection, to the amount of taxes remaining uncollected or unremitted, or both, any related penalty and any interest on that amount and the penalty that were required to be collected or were collected by the person for the 6 months before the date of the most recent registration of a lien under subsection (2) (b).
- (8) In relation to a certificate of lien registered under subsection (2) (a) against the real property of a person, the director may register a certificate of lien, in the form prescribed for the purposes of subsection (2) (a) in the appropriate land title office in the same manner that a charge is registered under the *Land Title Act* if
- (a) the certificate of lien registered under subsection (2) (a) against the real property of the person contains a statement of the amount owing, and
 - (b) the director is satisfied that the statement referred to in paragraph (a) of this subsection is incorrect.
- (8.1) In relation to a financing statement registered under subsection (2) (b) against the personal property of a person, the director may register a financing change statement, as defined in the *Personal Property Security Act*, in the personal property registry if
- (a) the financing statement registered under subsection (2) (b) contains a statement of the amount owing, and
 - (b) the director is satisfied that the amount referred to in paragraph (a) of this subsection that is stated in that financing statement is incorrect.

- (8.2) A certificate of lien registered under subsection (8) and a financing change statement registered under subsection (8.1) must contain a revised statement of the amount owing.
- (9) On registration of a certificate of lien against the real property of a person under subsection (8), the certificate of lien registered under subsection (2) (a) against the real property of the person is, at the same time it was originally registered, deemed to be revised to set out the amount owing as stated in the certificate of lien registered under subsection (8).
- (9.1) On registration of a financing change statement against the personal property of a person under subsection (8.1), the financing statement registered under subsection (2) (b) against the real property of the person is, at the same time it was originally registered, deemed to be revised to set out the amount owing as stated in the financing change statement registered under subsection (8.1).
- (10) Despite section 228 [*confidentiality*], the director must,
- (a) on the oral or written request of a person, disclose in writing the amount of the lien under this section registered against the personal or real property of the person, or
 - (b) on the written request of a person accompanied by the written consent of a named person, disclose in writing the amount of the lien under this section registered against the personal or real property of the named person.
- (11) If the director believes that one corporation is associated with another corporation within the meaning of section 256 of the *Income Tax Act* (Canada), the director may request one or both of the corporations to provide to the director the records and information required by the director to confirm or rebut that belief.
- (12) The director may determine that corporations are associated corporations for the purposes of this section if
- (a) a corporation that has been requested to provide records or information to the director under subsection (11) fails or refuses to comply with that request within a period of time considered by the director to be reasonable in the circumstances, or
 - (b) the records or information provided to the director under this section confirm the director's belief that the corporations are associated.
- (13) Immediately after a corporation is determined under this section to be associated with a person referred to in subsection (2) (a) (i) and (b) (i), the director
- (a) must notify the corporation of this in writing, and
 - (b) may register a lien under this section against the real and personal property of the corporation.
- (14) The director may seize personal property against which a lien is registered under subsection (13) at any time after the registration of the lien, but must not take any action to realize on those assets until the later of
- (a) the date that is 90 days after the date on which the notice required under subsection (13) (a) was sent to the corporation, and
 - (b) if a notice of appeal is served on the minister in respect of the determination within the time provided by section 211 (3), the date on which the minister upholds the determination under that appeal.

- (15) If, at any time, the director becomes convinced that the corporations were not associated within the meaning of the section 256 of the *Income Tax Act* (Canada) at the time that the lien was registered under subsection (13) (b) of this section or if the minister or a court of competent jurisdiction upholds the corporation's appeal against the director's determination on the basis that the corporations were not associated at the time that the lien was registered, the director must,
- (a) if the director has not realized on any of the assets against which the lien was registered, promptly release the lien, and
 - (b) if the director has realized on some or all of the assets against which the lien was registered, promptly release the lien against the remaining assets and pay the proceeds realized from the sale of the realized assets minus any costs or expenses incurred in the sale
 - (i) to the corporation, or
 - (ii) if the director considers it appropriate to do so, into the Supreme Court under Rule 10-3 of the Supreme Court Civil Rules.
- (16) The release of the lien under subsection (15) (a) or the release of the lien and payment of the applicable net sale proceeds under subsection (15) (b) is deemed to be full satisfaction of all claims any person, including the corporation, might have arising out of or in any way connected with the determination made under subsection (12), the registration of the lien or the seizure or sale of any or all of the assets against which the lien was registered.

Responsibility of person having control of property

- 222** (1) In this section, “**secured party**” has the same meaning as in the *Personal Property Security Act*.
- (2) This section applies to a person who, as assignee, liquidator, administrator, receiver, receiver manager, trustee, secured party or similar person, other than a trustee appointed under the *Bankruptcy and Insolvency Act* (Canada), takes control or possession of the property of a person who has collected tax or an amount as if it were tax or is required to levy or remit tax under this Act.
- (3) Before distributing the proceeds from the realization of the property referred to in subsection (2), a person to whom this section applies must obtain from the director a certificate that the amount that constituted a lien under section 221 has been paid.
- (4) If a person to whom this section applies distributes the proceeds from the realization of the property referred to in subsection (2), without having obtained the certificate required by subsection (3), the person is personally liable to the government for an amount equal to the amount required to be paid to obtain the certificate.

Notice of enforcement proceedings

- 223** (1) Before taking proceedings for the recovery of an amount owing to the government under this Act, the director must give to the person who owes the amount notice of the director's intention to enforce payment.
- (2) Failure to give notice under subsection (1) does not affect the validity of proceedings taken for the recovery of an amount owing to the government under this Act.

Limitation period

- 224** (1) In this section, “**collection proceeding**” means
- (a) a proceeding for the recovery of an amount owing to the government under section 217,
 - (b) the filing of a certificate under section 218,
 - (c) the making of a demand under section 220, and
 - (d) the registration or enforcement of a lien under section 221.
- (2) A collection proceeding may be commenced at any time within 7 years after the date of the notice of assessment for the amount claimed in the collection proceeding.
- (3) Despite subsection (2), a collection proceeding that relates to a contravention of this Act or the regulations and that involves wilful default or fraud may be commenced at any time.
- (4) If, before the expiry of the limitation period that applies under subsection (2) to an amount claimed, a person acknowledges liability in respect of the amount claimed, the date of the notice of assessment is deemed to be the day on which the acknowledgement is made.
- (5) Subsection (4) does not apply to an acknowledgment, other than an acknowledgement referred to in subsection (6), unless the acknowledgment is
- (a) in writing,
 - (b) signed, by hand or by electronic signature within the meaning of the *Electronic Transactions Act*,
 - (c) made by the person making the acknowledgment or the person’s agent, and
 - (d) made to the government or an agent of the government.
- (6) In the case of a an amount claimed to which the limitation period under subsection (2) applies, for the purposes of subsection (4), part payment of the amount by the person against whom the claim is or may be made or by the person’s agent is an acknowledgment by the person against whom the claim is or may be made of liability in respect of the claim.
- (7) Section 24 (2), (4) and (10) of the *Limitation Act* applies for the purposes of this section.
- (8) The liability of a person for the payment of an amount owing to the government under this Act is not affected by the expiry of the limitation period that applies under subsection (2) to the amount claimed.

Application for injunction

- 225** The director may apply to the Supreme Court for an injunction ordering a person to cease selling, offering to sell, providing or offering to provide tangible personal property, software or a taxable service or leasing or offering to lease tangible personal property until the person complies with this Act and the regulations and the person’s obligations under this Act are fulfilled.

PART 12 — GENERAL

Designation of director

- 226** The minister may designate as director to administer this Act a person who is appointed under

the *Public Service Act*.

Delegation

- 227** (1) The director may, in writing, delegate any of the director's powers or duties under this Act.
- (2) A delegation under subsection (1) may be to a named person or to a class of persons.

Confidentiality

- 228** (1) A person who has custody of or control over information or records under this Act must not disclose the information or records to any other person except as follows:
- (a) in the course of administering or enforcing this Act or the regulations, or another taxation enactment;
 - (b) in court proceedings relating to this Act or the regulations, or another taxation enactment;
 - (c) as provided in, or ordered under, section 239 or 242 of the *Family Law Act* or section 8.2 or 9 of the *Family Maintenance Enforcement Act*;
 - (d) under an agreement that
 - (i) is between the government and another government,
 - (ii) relates to the administration or enforcement of taxation enactments, and
 - (iii) provides for the disclosure of information and records to, and the exchange of similar information and records with, that other government;
 - (e) for the purpose of the compilation of statistical information by the government or the government of Canada.
- (2) Despite subsection (1), the director may publish the names and addresses of registrants.

Service of notices

- 229** (1) If service of a notice or other document by the director is required or authorized under this Act, the notice or document is conclusively deemed to have been served if
- (a) served on the person,
 - (b) sent by registered mail to the last known address of the person according to the records of the director, or
 - (c) sent by electronic mail or fax to the last known electronic mail address or fax number of the person according to the records of the director.
- (2) If service of a notice or other document on the minister is required or authorized under this Act, the notice or document is conclusively deemed to have been served if delivered to the office of the deputy minister.
- (3) If service under subsection (1) is by registered mail, electronic mail or fax, the notice or document is conclusively deemed to be served when sent.
- (4) If a person carries on business under a name or style other than the person's own name, the notice or document may be addressed to the name or style under which the person carries on business and, in the case of personal service, is deemed to have been validly served if the notice or document was left with an adult employed at the place of business of the person.

- (5) If persons carry on business in partnership, the notice or document may be addressed to the partnership name and, in the case of personal service, is deemed to have been validly served if the notice or document was served on one of the partners or left with an adult employed at the place of business of the partnership.
- (6) In the case of personal service, a notice or document is deemed to have been validly served
 - (a) on a corporation, if it was delivered to any board member, senior officer, liquidator or receiver manager of the corporation, and
 - (b) on an extraprovincial corporation, if it was delivered to a person referred to in paragraph (a) or to an attorney for the extraprovincial corporation.
- (7) Proof of the receipt by a person of any notice or document may be established in any court by showing that the notice or document was served or sent in a manner provided for in this section, and the burden of proof is on the person seeking to establish the fact that the notice or document was not received by that person.
- (8) In a prosecution or any proceeding for any matter arising under this Act, the facts necessary to establish compliance on the part of the director with this section may be sufficiently proved in any court by the production of an affidavit of the director setting out the facts.

PART 13 — OFFENCES AND PENALTIES

Offences and penalties

- 230** (1) A person who contravenes section 228 [*confidentiality*] commits an offence and is liable to a fine of not more than \$2 000.
- (2) A person who contravenes section 177 (1), (2) or (3) [*prohibitions relating to use of registration number*] or 194 (3) (a) or (7) [*inspection and audit powers*] commits an offence.
- (3) A person who does any of the following commits an offence:
- (a) makes, or participates in, assents to or acquiesces in the making of, a false or deceptive statement in a return, a declaration, an application for a refund or a form required to be made or filed under this Act;
 - (b) destroys, alters, mutilates, hides or otherwise disposes of a record to evade payment of an amount to be paid or remitted to the government under this Act;
 - (c) makes, or participates in, assents to or acquiesces in the making of, a false or deceptive entry in a record related to an amount to be paid or remitted to the government under this Act;
 - (d) omits, or participates in, assents to or acquiesces in the omission of, a material particular in a record required to be kept under this Act;
 - (e) wilfully, in any manner, or fraudulently claims, or participates in, assents to or acquiesces in the claiming of, an exemption by using a document or other record in a false or deceptive manner or by making a false or deceptive declaration;
 - (f) wilfully, in any manner, fails to comply with this Act or the regulations;
 - (g) wilfully, in any manner, evades or attempts to evade compliance with this Act or the regulations or payment or remittance of taxes required under this Act;

- (h) conspires with any person to do anything described in paragraphs (a) to (g).
- (4) A person who commits an offence under subsection (2) or (3) is liable
 - (a) to a fine of not more than \$10 000 or to imprisonment for not more than 2 years, or to both, and
 - (b) to an additional fine equal to the amount of any tax not collected, remitted or paid or equal to the amount received as a refund of a tax under this Act that was in excess of the amount that was due, as applicable.
- (5) In a prosecution under subsection (2) or (3), a certificate signed by the director stating the amount of tax or the amount of the refund referred to in subsection (4) (b) is evidence of the amount of tax or the amount of the refund referred to in that subsection.

Onus of proof

- 231** In a prosecution for failure to collect, remit or pay an amount under this Act, the onus is on the accused to prove that the accused collected the amount or remitted or paid the amount to the government.

Evidence

- 232** In a prosecution under this Act,
- (a) evidence that a person applied to be registered under section 168 [*registration*] is evidence that the person is registered for the purposes of this Act,
 - (b) evidence that a person is described as a partnership on an application form submitted under section 168 [*registration*] is evidence that the persons named on the form as partners in the partnership are partners in the partnership,
 - (c) evidence that a person filed a collector's return is evidence that the person collected tax, and
 - (d) a notice of assessment issued under this Act is evidence that the amount stated in the notice of assessment is due and owing.

Offence by corporation

- 233** If a corporation commits an offence under this Act, an employee, officer, board member or agent of the corporation who authorized, permitted or acquiesced in the offence also commits that offence, whether or not the corporation is prosecuted or convicted.

Time limit on prosecution

- 234** No prosecution for an offence under this Act or the regulations may be instituted more than 6 years after the day the alleged offence was committed.

Section 5 of *Offence Act*

- 235** Section 5 [*general offence*] of the *Offence Act* does not apply to this Act or the regulations.

PART 14 — REGULATIONS

General regulation-making authority

- 236** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting any matter for which regulations are contemplated by this Act.
- (3) The authority to make regulations under another provision of this Act does not limit subsection (1) or (2).
- (4) In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:
 - (a) delegate a matter to a person;
 - (b) confer a discretion on a person;
 - (c) make different regulations for different persons, tangible personal property, software, taxable services, places, things, circumstances, uses or transactions, or for different classes of persons, tangible personal property, software, taxable services, places, things, circumstances, uses or transactions;
 - (d) establish or define classes of persons, tangible personal property, software, taxable services, places, things, circumstances, uses or transactions.
- (5) A regulation made on or before March 31, 2016 under this Act may be made retroactive to April 1, 2013 or a later date, and if made retroactive is deemed to have come into force on the specified date.

Regulations in relation to tax payment agreements

- 237** The Lieutenant Governor in Council may make regulations in relation to tax payment agreements under section 32 as follows:
- (a) respecting the circumstances in which a person liable to pay tax must pay the tax to a collector or directly to the government in relation to a purchase or lease of tangible personal property or a purchase of software to which an agreement applies;
 - (b) setting or establishing conditions of an agreement;
 - (c) respecting the relief of a collector from the obligation to levy and collect tax in relation to a purchase or lease of tangible personal property or a purchase of software to which an agreement applies;
 - (d) respecting the imposition of a penalty for a failure to comply with this Act, the regulations or a term or condition of an agreement.

Regulations in relation to tangible personal property

- 238** The Lieutenant Governor in Council may make regulations in relation to tangible personal property as follows:
- (a) for the purposes of section 25 (2) (a), respecting the determination of the depreciated value of tangible personal property prescribed for the purposes of that section;
 - (b) respecting the calculation of the tax payable under section 51 [*tax if tangible personal property brought into British Columbia for temporary use*] in relation to tangible personal property to which section 51 (9) applies;

- (c) for the purpose of calculating the tax payable under Division 6 [*Conveyances Used Interjurisdictionally*] of Part 3 by persons using fleets of interjurisdictional aircraft, interjurisdictional railway rolling stock or interjurisdictional conveyances, as those terms are defined in that Division, prescribing formulas
 - (i) that are based on the use of those fleets in British Columbia, and
 - (ii) that those persons may choose to use instead of the formulas applied under that Division;
- (d) providing that tax calculated in accordance with a formula prescribed for a fleet be paid in a different manner or at different times from those provided in Division 6 of Part 3;
- (e) prescribing the manner in which and the conditions on which the director may provide a refund or credit under Division 7 [*Multijurisdictional Vehicles*] of Part 3 and the manner in which the amount of that refund or credit is to be calculated;
- (f) establishing reporting requirements for the purposes of section 97 [*reporting requirements in relation to energy products*].

Regulations in relation to software

239 The Lieutenant Governor in Council may make regulations in relation to software as follows:

- (a) for the purposes of section 107, respecting the determination of the estimated portion of use of software in British Columbia;
- (b) for the purposes of the descriptions of “BC usage” and “total usage” in section 107 (2), prescribing a period, which may be different for BC usage and total usage.

Regulations in relation to accommodation

240 (1) The Lieutenant Governor in Council may make regulations in relation to accommodation as follows:

- (a) for the purposes of section 19 (3) [*original purchase price of accommodation*], respecting the method by which a purchase price may be attributed to accommodation that is sold as part of a combination of accommodation, meals and other prescribed services;
- (a.1) for the purposes of section 26 (6) [*purchase price if bundled purchase*], respecting the method by which a purchase price may be attributed to accommodation to which that section applies;
- (b) designating as a designated accommodation area
 - (i) the area of a municipality,
 - (ii) all or part of the area of a regional district, or
 - (iii) an area of British Columbia;
- (c) for the purposes of sections 123 (1) and 123.2 (3), designating, in relation to a designated accommodation area, a municipality, regional district or eligible entity as a designated recipient;
- (d) for the purposes of section 123 (1) and subject to section 123 (2), prescribing the rate of tax that is to apply to accommodation purchased in a designated accommodation area;

- (e) prescribing the purposes for which the amount paid to the designated recipient out of the revenue collected from the tax may be spent by the designated recipient.
- (2) The Lieutenant Governor in Council may not make a regulation under subsection (1) (b), (c), (d) or (e) unless the regulation is requested by the municipality, regional district or eligible entity.
- (3) The Lieutenant Governor in Council may make regulations establishing conditions or requirements in relation to a request referred to in subsection (2).
- (4) The Lieutenant Governor in Council may amend, repeal or replace a regulation made under subsection (1) (b), (c), (d) or (e) whether or not the amendment, repeal or replacement is requested by the municipality, regional district or eligible entity that requested the regulation.
- (5) The Lieutenant Governor in Council may not make a regulation under subsection (1) (c) designating more than one municipality, regional district or eligible entity in relation to a designated accommodation area.

Regulations in relation to exemptions

- 241** (1) Despite any other provision of this Act, the Lieutenant Governor in Council may make regulations providing for exemptions from one or more provisions of this Act or a regulation made under it, including, without limitation, regulations doing one or more of the following:
- (a) exempting a person from a requirement to levy, collect, remit or pay all or a portion of tax imposed under this Act;
 - (b) exempting any tangible personal property, software or taxable service from taxation under this Act, in whole or in part;
 - (c) establishing circumstances in which an exemption applies;
 - (d) setting conditions of, or limitations on, the application of an exemption.
- (2) For the purposes of section 137 [*taxable component sold with a non-taxable component for single price*], the Lieutenant Governor in Council may make regulations setting conditions of, or limitations on, the application of an exemption under that section.

Regulations in relation to refunds

- 242** (1) For the purposes of section 162 [*refunds authorized or required under regulations*], the Lieutenant Governor in Council may make regulations providing for a refund of all or part of an amount paid or remitted under this Act, including, without limitation, regulations doing one or more of the following:
- (a) permitting or requiring the payment of a refund to a person of an amount paid or remitted under this Act by the person;
 - (a.1) permitting or requiring the payment of a refund to an eligible charity of an amount paid under this Act by a person;
 - (b) establishing circumstances in which a refund may or must be paid;
 - (c) setting conditions of, or limitations on, the payment of a refund.
- (2) The Lieutenant Governor in Council may make regulations respecting applications for a refund under section 165.

- (3) The Lieutenant Governor in Council may make regulations respecting the repayment of all or part of a refund obtained under this Act, including, without limitation, regulations doing one or more of the following:
 - (a) requiring a person to repay a refund paid to the person;
 - (b) establishing circumstances in which a refund must be repaid;
 - (c) setting conditions of, or limitations on, the repayment of a refund.

Regulations in relation to refunds and credits in relation to exclusive products

- 243** The Lieutenant Governor in Council may make regulations providing for a refund or credit in relation to tax collected, remitted or paid on the sale of exclusive products, including, without limitation, regulations doing one or more of the following:
- (a) permitting or requiring the payment of a refund or credit by the director or by a direct seller;
 - (b) establishing circumstances in which a refund or credit may or must be paid;
 - (c) setting conditions of, or limitations on, the payment of a refund or credit.

Regulations in relation to claims of solicitor-client privilege

- 244** (0.1) In this section, “**client**” means a particular client or a particular former client.
- (1) This section applies in relation to a record or a part of a record
 - (a) that is in the possession of a lawyer and that is about to be inspected, audited or examined under this Act or about to be seized under a warrant in relation to an offence under this Act, and
 - (b) for which the lawyer at that time makes a claim of solicitor-client privilege for a client of the lawyer in relation to the record or part of the record.
 - (2) The Lieutenant Governor in Council may make regulations in relation to a record or a part of a record referred to in subsection (1) as follows:
 - (a) establishing procedures for allowing a record or part of a record to be retained or seized and to be held in a secure manner until
 - (i) the claim of solicitor-client privilege is waived by the client, or
 - (ii) the claim is determined, or the record or part of the record is otherwise dealt with, on application to the Supreme Court in accordance with the regulations;
 - (b) establishing a right to apply to the Supreme Court to resolve a claim of solicitor-client privilege regarding a record or part of a record retained or seized under paragraph (a) and establishing how the court is to deal with such an application.

Regulations specifying tax for coin-operated purchases

- 245** (1) The Lieutenant Governor in Council may make regulations specifying the amount of tax payable on a purchase referred to in subsection (2).
- (2) Despite any other section of this Act, if the purchase price for tangible personal property, software or a taxable service that is taxable under this Act is to be paid by coin or other legal tender because of the equipment by or through which the purchase is made, the Lieutenant Governor in Council may, by regulation, specify the amount of tax payable on the purchase in an amount that is equal to or less than the amount that would otherwise be payable under this Act.

Other regulations

- 246** The Lieutenant Governor in Council may make regulations doing one or more of the following:
- (a) defining any word or expression used but not defined in this Act;
 - (b) respecting the method and manner of collection, remittance or payment of tax imposed under this Act and other conditions or requirements affecting collection, remittance or payment of tax imposed under this Act;
 - (c) respecting estimates in relation to legal services for the purposes of section 127 (4) [*tax if legal services provided to British Columbia resident*] or 181 [*collection of tax under section 127*];
 - (d) for the purposes of section 185 [*allowance for collection of tax*], setting conditions of, or limitations on, the deduction of a prescribed allowance;
 - (e) respecting the duties of collectors and persons who are required to file returns for the remittance or payment of tax imposed under this Act;
 - (f) respecting records to be kept by
 - (i) a person who is required to levy, collect, remit or pay tax under this Act or who is exempt from paying tax under this Act,
 - (ii) a manufacturer, wholesaler, importer, agent or a prescribed person in respect of purchases, sales and leases of tangible personal property or sales of software or a taxable service, whether for consumption, use, resale or lease, and
 - (iii) a small seller,including, without limitation, the form and manner of the records and the length of time they are to be retained by the person;
 - (g) respecting requirements to display the amount of tax levied under this Act on a receipt or other document that may be issued by a person who is required to levy tax under this Act;
 - (h) respecting fees for certificates under sections 187 [*certificate required for bulk transaction*] and 222 [*responsibility of person having control of property*], including setting the fee and the time and manner of payment of the fee;
 - (i) prescribing interest rates and the manner of calculating interest for the purposes of this Act;
 - (j) prescribing for a contravention of a regulation a penalty not exceeding the maximum fine or term of imprisonment, or both, set out in section 230 [*offences and penalties*].

TRANSITIONAL PROVISIONS FOR THE PROVINCIAL SALES TAX ACT

Division 1 – Definitions and Interpretation

Definitions

- 1 (1) Section 1 [definitions] of the *Provincial Sales Tax Act* applies for the purposes of this Part.

Application of provisions of *Provincial Sales Tax Act*

- 2 The following sections of the *Provincial Sales Tax Act* apply for the purposes of this Part:
- (a) section 28 (9) [deposit is not consideration];
 - (b) section 33 [when consideration becomes due].

Division 2 – Taxes in Relation to Tangible Personal Property

Section 37 – purchases of tangible personal property

- 3 (1) Subject to this section, section 37 of the *Provincial Sales Tax Act* applies in relation to tangible personal property purchased before April 1, 2013.
- (2) Section 37 of the *Provincial Sales Tax Act* does not apply in respect of any consideration for the purchase of the tangible personal property that, before April 1, 2013, becomes due or is paid without having become due.
- (3) Section 37 of the *Provincial Sales Tax Act* does not apply in relation to tangible personal property purchased before April 1, 2013 if
- (a) all or any portion of the consideration for the purchase of the tangible personal property has neither been paid nor become due on or before the last day of the month immediately following the first month in which,
 - (i) in relation to a purchase of tangible personal property by way of sale, other than a purchase described in subparagraph (ii), the ownership or possession of the tangible personal property is transferred to the purchaser, or
 - (ii) in relation to a purchase of tangible personal property by way of sale under which the seller delivers the tangible personal property to the purchaser on approval, consignment, sale-or-return basis or other similar terms, the purchaser acquires ownership of the tangible personal property or makes the tangible personal property available to any person, other than the seller, and
 - (b) the last day of the month immediately following the first month referred to in paragraph (a) is before April 1, 2013.
- (4) Subsection (3) does not apply in respect of a purchase of tangible personal property if the tangible personal property is delivered or made available to the purchaser on a continuous basis by means of a wire, pipeline or other conduit and the seller invoices the purchaser in respect of that purchase on a regular or periodic basis.
- (5) Despite subsection (3), if all or any portion of the consideration for the purchase of the tangible personal property is not ascertainable before April 1, 2013, section 37 of the *Provincial Sales Tax Act* applies in respect of that or any portion of that consideration that becomes ascertainable on or after April 1, 2013.

- (6) Despite subsections (2), (3) and (5), if the purchaser of the tangible personal property retains, under
- (a) a law of Canada or another province, or
 - (b) an agreement in writing for the construction, renovation, alteration or repair of any real property or any ship or other marine vessel,
- a portion of the consideration for the purchase of the tangible personal property pending full and satisfactory performance, or any part thereof, section 37 of the *Provincial Sales Tax Act* applies in respect of that portion of that consideration that becomes payable on or after April 1, 2013 and is not paid before April 1, 2013.

Division 3 of Part 3 – leases of tangible personal property

- 4 (1) Subject to this section, Division 3 of Part 3 of the *Provincial Sales Tax Act* applies in relation to a lease entered into before April 1, 2013.
- (2) Section 39 [*tax on leases*] of the *Provincial Sales Tax Act* does not apply in respect of any consideration for the lease of the tangible personal property that, before April 1, 2013, becomes due or is paid without having become due.
- (3) Subject to subsection (4), section 41 [*tax if leased property used in and outside British Columbia during rental period*] of the *Provincial Sales Tax Act* applies in relation to tangible personal property that is brought or sent into British Columbia before April 1, 2013.
- (4) Section 41 of the *Provincial Sales Tax Act* does not apply in respect of any consideration for the lease of the tangible personal property that, before April 1, 2013, becomes due or is paid without having become due.
- (5) Subject to subsection (6), section 42 [*tax if balance of lease price becomes due on breach of lease*] of the *Provincial Sales Tax Act* applies to a lessee if,
- (a) before April 1, 2013, the lessee breaches the lease, and
 - (b) on or after April 1, 2013, the payment referred to in section 42 (1) (b) of that Act becomes due under the terms of the lease.
- (6) Section 42 of the *Provincial Sales Tax Act* does not apply in respect of any portion of the payment referred to in section 42 (1) (b) of that Act that is paid before April 1, 2013.
- (7) Subject to subsection (8), section 43 [*additional tax on lease of passenger vehicle*] of the *Provincial Sales Tax Act* applies in respect of a lease of a passenger vehicle if any consideration for the lease of the passenger vehicle
- (a) becomes due on or after April 1, 2013, and
 - (b) is not paid before April 1, 2013 without having become due.
- (8) Section 43 of the *Provincial Sales Tax Act* does not apply in respect of each day or portion of a day before April 1, 2013 that the lessee leases the passenger vehicle.

Sections 49 and 52 – tangible personal property purchased in Canada and brought into British Columbia

- 5 (1) Subject to this section, sections 49 and 52 of the *Provincial Sales Tax Act* apply in relation to tangible personal property that is purchased outside British Columbia but in Canada if,

before April 1, 2013, delivery of the tangible personal property is received in British Columbia.

- (2) Sections 49 and 52 of the *Provincial Sales Tax Act* do not apply in respect of any consideration for the tangible personal property referred to in subsection (1) of this section that, before April 1, 2013, becomes due or is paid without having become due.
- (3) Sections 49 and 52 of the *Provincial Sales Tax Act* do not apply in relation to a purchase of tangible personal property referred to in subsection (1) of this section if
 - (a) all or any portion of the consideration for the purchase of the tangible personal property has neither been paid nor become due on or before the last day of the month immediately following the first month in which,
 - (i) in relation to a purchase of tangible personal property by way of sale, other than a purchase described in subparagraph (ii), the ownership or possession of the tangible personal property is transferred to the purchaser, or
 - (ii) in relation to a purchase of tangible personal property by way of sale under which the seller delivers the tangible personal property to the purchaser on approval, consignment, sale-or-return basis or other similar terms, the purchaser acquires ownership of the tangible personal property or makes the tangible personal property available to any person, other than the seller, and
 - (b) the last day of the month immediately following the first month referred to in paragraph (a) is before April 1, 2013.
- (4) Subsection (3) does not apply in respect of a purchase of tangible personal property if the tangible personal property is delivered to the purchaser on a continuous basis by means of a wire, pipeline or other conduit and the seller invoices the purchaser in respect of that purchase on a regular or periodic basis.
- (5) Despite subsection (3), if all or any portion of the consideration for the purchase of the tangible personal property is not ascertainable before April 1, 2013, sections 49 and 52 of the *Provincial Sales Tax Act* apply in respect of that or any portion of that consideration that becomes ascertainable on or after April 1, 2013.
- (6) Despite subsections (2), (3) and (5), if the purchaser of the tangible personal property retains, under
 - (a) a law of Canada or another province, or
 - (b) an agreement in writing for the construction, renovation, alteration or repair of any real property or any ship or other marine vessel,a portion of the consideration for the purchase of the tangible personal property pending full and satisfactory performance, or any part thereof, sections 49 and 52 of the *Provincial Sales Tax Act* apply in respect of that portion of that consideration that becomes payable on or after April 1, 2013 and is not paid before April 1, 2013.

Sections 49 and 52 – tangible personal property brought into British Columbia from outside Canada

- 6 Sections 49 and 52 of the *Provincial Sales Tax Act* apply in relation to tangible personal property if,
 - (a) before April 1, 2013,

- (i) the tangible personal property is brought or sent into British Columbia from a place outside Canada, or
 - (ii) delivery of the tangible personal property is received in British Columbia from a place outside Canada, and
- (b) on or after April 1, 2013, the tangible personal property is accounted for under section 32 (1), (2) (a) or (5) of the *Customs Act* (Canada) or released in the circumstances set out in section 32 (2) (b) of that Act.

Section 50 – registration of vehicle brought into British Columbia

- 7 Section 50 of the *Provincial Sales Tax Act* applies in relation to a vehicle registered on or after April 1, 2013 regardless of when the vehicle was brought or sent into British Columbia or when delivery of the vehicle was received in British Columbia.

Section 55 – property brought into British Columbia from outside Canada

- 8 (1) Section 55 (1) of the *Provincial Sales Tax Act* applies to a resident taxpayer in relation to tangible personal property if,
- (a) before April 1, 2013,
 - (i) the resident taxpayer brings or sends the tangible personal property into British Columbia from a place outside Canada, or
 - (ii) the tangible personal property is sent into British Columbia from a place outside Canada under an arrangement entered into by the resident taxpayer, and
 - (b) on or after April 1, 2013, the tangible personal property is accounted for under section 32 (1), (2) (a) or (5) of the *Customs Act* (Canada) or released in the circumstances set out in section 32 (2) (b) of that Act.
- (2) For the purposes of subsection (1), Section 55 (2) of the *Provincial Sales Tax Act* applies to a resident taxpayer in relation to tangible personal property if the time of receiving the tangible personal property is on or after April 1, 2013.

Section 60 – conveyance purchased in British Columbia for interjurisdictional use

- 9 (1) Subject to this section, section 60 of the *Provincial Sales Tax Act* applies in relation to a taxable conveyance purchased before April 1, 2013.
- (2) Section 60 of the *Provincial Sales Tax Act* does not apply in respect of any consideration for the taxable conveyance that, before April 1, 2013, becomes due or is paid without having become due.
- (3) Section 60 of the *Provincial Sales Tax Act* does not apply in relation to a taxable conveyance purchased before April 1, 2013 if
- (a) all or any portion of the consideration for the purchase of the taxable conveyance has neither been paid nor become due on or before the last day of the month immediately following the first month in which,

- (i) in relation to a purchase of a taxable conveyance by way of sale, other than a purchase described in subparagraph (ii), the ownership or possession of the taxable conveyance is transferred to the purchaser, or
 - (ii) in relation to a purchase of a taxable conveyance by way of sale under which the seller delivers the taxable conveyance to the purchaser on approval, consignment, sale-or-return basis or other similar terms, the purchaser acquires ownership of the taxable conveyance or makes the taxable conveyance available to any person, other than the seller, and
- (b) the last day of the month immediately following the first month referred to in paragraph (a) is before April 1, 2013.
- (4) Despite subsection (3), if all or any portion of the consideration for the purchase of the taxable conveyance is not ascertainable before April 1, 2013, section 60 of the *Provincial Sales Tax Act* applies in respect of that or any portion of that consideration that becomes ascertainable on or after April 1, 2013.
- (5) Despite subsections (2), (3) and (4), if the purchaser of the taxable conveyance retains, under
 - (a) a law of Canada or another province, or
 - (b) an agreement in writing for the construction, renovation, alteration or repair of any real property or any ship or other marine vessel,a portion of the consideration for the purchase of the taxable conveyance pending full and satisfactory performance, or any part thereof, section 60 of the *Provincial Sales Tax Act* applies in respect of that portion of that consideration that becomes payable on or after April 1, 2013 and is not paid before April 1, 2013.

Sections 61 and 62 – lease of conveyance

- 10** (1) Subject to subsection (2), sections 61 and 62 of the *Provincial Sales Tax Act* apply in relation to a lease entered into before April 1, 2013.
- (2) Section 61 or 62 of the *Provincial Sales Tax Act* does not apply in respect of any consideration for the lease of the conveyance that, before April 1, 2013, becomes due or is paid without having become due.

Section 63 – conveyance purchased in Canada and brought into and used in British Columbia

- 11** (1) Subject to this section, section 63 of the *Provincial Sales Tax Act* applies in relation to a taxable conveyance that is purchased outside British Columbia but in Canada if, before April 1, 2013, delivery of the taxable conveyance is received in British Columbia.
- (2) Section 63 of the *Provincial Sales Tax Act* does not apply in respect of any consideration for the taxable conveyance referred to in subsection (1) of this section that, before April 1, 2013, becomes due or is paid without having become due.
- (3) Section 63 of the *Provincial Sales Tax Act* does not apply in relation to a purchase of a taxable conveyance referred to in subsection (1) of this section if
- (a) all or any portion of the consideration for the purchase of the taxable conveyance has neither been paid nor become due on or before the last day of the month immediately following the first month in which,

- (i) in relation to a purchase of a taxable conveyance by way of sale, other than a purchase described in subparagraph (ii), the ownership or possession of the taxable conveyance is transferred to the purchaser, or
 - (ii) in relation to a purchase of a taxable conveyance by way of sale under which the seller delivers the taxable conveyance to the purchaser on approval, consignment, sale-or-return basis or other similar terms, the purchaser acquires ownership of the taxable conveyance or makes the taxable conveyance available to any person, other than the seller, and
 - (b) the last day of the month immediately following the first month referred to in paragraph (a) is before April 1, 2013.
- (4) Despite subsection (3), if all or any portion of the consideration for the purchase of the taxable conveyance is not ascertainable before April 1, 2013, section 63 of the *Provincial Sales Tax Act* applies in respect of that or any portion of that consideration that becomes ascertainable on or after April 1, 2013.
- (5) Despite subsections (2) to (4), if the purchaser of the taxable conveyance retains, under
- (a) a law of Canada or another province, or
 - (b) an agreement in writing for the construction, renovation, alteration or repair of any real property or any ship or other marine vessel,
- a portion of the consideration for the purchase of the taxable conveyance pending full and satisfactory performance, or any part thereof, section 63 of the *Provincial Sales Tax Act* applies in respect of that portion of that consideration that becomes payable on or after April 1, 2013 and is not paid before April 1, 2013.

Section 63 – taxable conveyance brought into British Columbia from outside Canada

- 12** Section 63 of the *Provincial Sales Tax Act* applies in relation to a taxable conveyance if,
- (a) before April 1, 2013,
 - (i) the taxable conveyance is brought or sent into British Columbia from a place outside Canada, or
 - (ii) delivery of the taxable conveyance is received in British Columbia from a place outside Canada, and
 - (b) on or after April 1, 2013, the taxable conveyance is accounted for under section 32 (1), (2) (a) or (5) of the *Customs Act* (Canada) or released in the circumstances set out in section 32 (2) (b) of that Act.

Section 64 – change in use of conveyance acquired for resale

- 13** (1) Section 64 of the *Provincial Sales Tax Act* applies to a person who purchased in British Columbia a taxable conveyance if any consideration for the purchase of the conveyance
- (a) becomes due on or after April 1, 2013, and
 - (b) is not paid before April 1, 2013 without having become due.
- (2) Section 64 of the *Provincial Sales Tax Act* applies to a person in relation to a taxable conveyance if
- (a) the person brought or sent into British Columbia, or received delivery of in British Columbia, the taxable conveyance before April 1, 2013, and

- (b) the person first becomes a user of the conveyance on or after April 1, 2013.

Section 75 – transition credit if tax previously paid

- 14** (1) The Insurance Corporation of British Columbia must provide a credit to a person who licenses a vehicle under a licence to which a prorating agreement applies if
- (a) the vehicle is so licensed before the end of the 4th calendar year after the calendar year in which is its acquisition date,
 - (b) the person, on purchasing the vehicle or on bringing or sending the vehicle into British Columbia, paid tax payable under
 - (i) section 5 [*tax on purchase*] or 11 (3) [*tax if tangible personal property brought into British Columbia for use*] of the *Social Service Tax Act*, or
 - (ii) section 19 [*tax on designated property acquired in British Columbia*], 20 [*tax on designated property brought into British Columbia*] or 21 [*tax on registration of vehicle brought into British Columbia*] of the *Consumption Tax Rebate and Transition Act*,
 - (c) the vehicle was purchased in British Columbia or was first brought or sent into British Columbia after March 31, 2009 but before April 1, 2013, and
 - (d) the vehicle is subject to tax imposed under section 69 [*tax if multijurisdictional vehicle licensed*] of the *Provincial Sales Tax Act*.
- (2) The Insurance Corporation of British Columbia must provide a credit to a person who licenses a vehicle in British Columbia under a licence to which a prorating agreement applies if
- (a) the vehicle is transferred to the person under an agreement but the transferor retains a beneficial interest in the vehicle,
 - (b) the vehicle is so licensed before the end of the 4th calendar year after the calendar year in which is the transferor's acquisition date for the vehicle,
 - (c) the transferor referred to in paragraph (a) had previously paid tax in relation to the vehicle under
 - (i) section 5 [*tax on purchase*] or 11 (3) [*tax if tangible personal property brought into British Columbia for use*] of the *Social Service Tax Act*, or
 - (ii) section 19 [*tax on designated property acquired in British Columbia*], 20 [*tax on designated property brought into British Columbia*] or 21 [*tax on registration of vehicle brought into British Columbia*] of the *Consumption Tax Rebate and Transition Act*.
- (3) The credit to which a person is entitled under subsection (1) or (2)
- (a) must be calculated in accordance with the regulations,
 - (b) must be applied against any tax payable under Division 7 [*Multijurisdictional Vehicles*] of Part 3 of the *Provincial Sales Tax Act* by the person in respect of the vehicle until the full amount of the credit has been applied in that manner, and
 - (c) must not be provided to the person in any other manner.

Section 80 – affixed machinery and improvements to real property

- 15** Section 80 of the *Provincial Sales Tax Act* applies in relation to a contract, referred to in section 80 (1) (a) of that Act, that is entered into before April 1, 2013.

Section 81 – change in use of tangible personal property acquired for resale

- 16** (1) Section 81 of the *Provincial Sales Tax Act* applies to a person who purchased in British Columbia tangible personal property if any consideration for the purchase of the tangible personal property
- (a) becomes due on or after April 1, 2013, and
 - (b) is not paid before April 1, 2013 without having become due.
- (2) Section 81 of the *Provincial Sales Tax Act* applies to a person in relation to tangible personal property if
- (a) the person brought or sent into British Columbia, or received delivery of in British Columbia, the tangible personal property before April 1, 2013, and
 - (b) the person first becomes a user of the tangible personal property on or after April 1, 2013.

Section 84.1 – change in use of motor vehicle acquired for resale

- 17** (1) Section 84.1 (2) of the *Provincial Sales Tax Act* applies to a dealer who purchased in British Columbia a motor vehicle prescribed for the purposes of that section if any consideration for the purchase of the motor vehicle
- (a) becomes due on or after April 1, 2013, and
 - (b) is not paid before April 1, 2013 without having become due.
- (2) Section 84.1 (2) of the *Provincial Sales Tax Act* applies to a dealer in relation to a motor vehicle prescribed for the purposes of that section if
- (a) the person brought or sent into British Columbia, or received delivery of in British Columbia, the motor vehicle before April 1, 2013, and
 - (b) the person first becomes a user of the tangible personal property on or after April 1, 2013.

Section 88 – leased tangible personal property that becomes part of real property

- 18** Section 88 of the *Provincial Sales Tax Act* applies in relation to a lease entered into before April 1, 2013.

Section 89 – acquisition of eligible tangible personal property by small seller

- 19** (1) In this section, “**purchaser**” means the small seller referred to in section 89 (1) of the *Provincial Sales Tax Act*.
- (2) Subject to this section, section 89 (1) of the *Provincial Sales Tax Act* applies in relation to eligible tangible personal property purchased before April 1, 2013.
- (3) Section 89 (1) of the *Provincial Sales Tax Act* does not apply in respect of any consideration for the purchase of the eligible tangible personal property that, before April 1, 2013, becomes due or is paid without having become due.
- (4) Section 89 (1) of the *Provincial Sales Tax Act* does not apply in relation to eligible tangible personal property purchased before April 1, 2013 if

- (a) all or any portion of the consideration for the purchase of the eligible tangible personal property has neither been paid nor become due on or before the last day of the month immediately following the first month in which,
 - (i) in relation to a purchase of eligible tangible personal property by way of sale, other than a purchase described in subparagraph (ii), the ownership or possession of the eligible tangible personal property is transferred to the purchaser, or
 - (ii) in relation to a purchase of eligible tangible personal property by way of sale under which the seller delivers the eligible tangible personal property to the purchaser on approval, consignment, sale-or-return basis or other similar terms, the purchaser acquires ownership of the eligible tangible personal property or makes the eligible tangible personal property available to any person, other than the seller, and
 - (b) the last day of the month immediately following the first month referred to in paragraph (a) is before April 1, 2013.
- (5) Subsection (4) does not apply in respect of a purchase of eligible tangible personal property if the eligible tangible personal property is delivered or made available to the purchaser on a continuous basis by means of a wire, pipeline or other conduit and the seller invoices the purchaser in respect of that purchase on a regular or periodic basis.
- (6) Despite subsection (4), if all or any portion of the consideration for the purchase of the eligible tangible personal property is not ascertainable before April 1, 2013, section 89 (1) of the *Provincial Sales Tax Act* applies in respect of that or any portion of that consideration that becomes ascertainable on or after April 1, 2013.
- (7) Despite subsections (3), (4) and (6), if the purchaser of the eligible tangible personal property retains, under
- (a) a law of Canada or another province, or
 - (b) an agreement in writing for the construction, renovation, alteration or repair of any real property or any ship or other marine vessel,
- a portion of the consideration for the purchase of the eligible tangible personal property pending full and satisfactory performance, or any part thereof, section 89 (1) of the *Provincial Sales Tax Act* applies in respect of that portion of that consideration that becomes payable on or after April 1, 2013 and is not paid before April 1, 2013.

Section 90 – eligible tangible personal property purchased in Canada and brought into British Columbia

- 20** (1) In this section, “**purchaser**” means the small seller referred to in section 89 (1) of the *Provincial Sales Tax Act*.
- (2) Subject to this section, section 90 of the *Provincial Sales Tax Act* applies in relation to eligible tangible personal property that is purchased outside British Columbia but in Canada if delivery of the eligible tangible personal property is received in British Columbia before April 1, 2013.
- (3) Section 90 of the *Provincial Sales Tax Act* does not apply in respect of any consideration for the eligible tangible personal property referred to in subsection (2) of this section that, before April 1, 2013, becomes due or is paid without having become due.

- (4) Section 90 of the *Provincial Sales Tax Act* does not apply in relation to a purchase made before April 1, 2013 of eligible tangible personal property referred to in subsection (2) of this section if
- (a) all or any portion of the consideration for the purchase of the eligible tangible personal property has neither been paid nor become due on or before the last day of the month immediately following the first month in which,
 - (i) in relation to a purchase of eligible tangible personal property by way of sale, other than a purchase described in subparagraph (ii), the ownership or possession of the eligible tangible personal property is transferred to the purchaser, or
 - (ii) in relation to a purchase of eligible tangible personal property by way of sale under which the seller delivers the eligible tangible personal property to the purchaser on approval, consignment, sale-or-return basis or other similar terms, the purchaser acquires ownership of the eligible tangible personal property or makes the eligible tangible personal property available to any person, other than the seller, and
 - (b) the last day of the month immediately following the first month referred to in paragraph (a) is before April 1, 2013.
- (5) Subsection (4) does not apply in respect of a purchase of eligible tangible personal property if the eligible tangible personal property is delivered to the purchaser on a continuous basis by means of a wire, pipeline or other conduit and the seller invoices the purchaser in respect of that purchase on a regular or periodic basis.
- (6) Despite subsection (4), if all or any portion of the consideration for the purchase of the eligible tangible personal property is not ascertainable before April 1, 2013, section 90 of the *Provincial Sales Tax Act* applies in respect of that or any portion of that consideration that becomes ascertainable on or after April 1, 2013.
- (7) Despite subsections (3), (4) and (6), if the purchaser of the eligible tangible personal property retains, under
- (a) a law of Canada or another province, or
 - (b) an agreement in writing for the construction, renovation, alteration or repair of any real property or any ship or other marine vessel,
- a portion of the consideration for the purchase of the eligible tangible personal property pending full and satisfactory performance, or any part thereof, section 90 of the *Provincial Sales Tax Act* applies in respect of that portion of that consideration that becomes payable on or after April 1, 2013 and is not paid before April 1, 2013.

Section 90 – eligible tangible personal property brought into British Columbia from outside Canada

- 21** Section 90 of the *Provincial Sales Tax Act* applies in relation to eligible tangible personal property if,
- (a) before April 1, 2013,
 - (i) the eligible tangible personal property is brought or sent into British Columbia from a place outside Canada, or
 - (ii) delivery of the eligible tangible personal property is received in British Columbia from a place outside Canada, and

- (b) on or after April 1, 2013, the eligible tangible personal property is accounted for under section 32 (1), (2) (a) or (5) of the *Customs Act* (Canada) or released in the circumstances set out in section 32 (2) (b) of that Act.

Section 92 – purchase of energy products

- 22**
- (1) Subject to this section, section 92 of the *Provincial Sales Tax Act* applies in relation to an energy product purchased before April 1, 2013.
 - (2) Section 92 of the *Provincial Sales Tax Act* does not apply in respect of any consideration for the energy product that, before April 1, 2013, becomes due or is paid without having become due.
 - (3) Section 92 of the *Provincial Sales Tax Act* does not apply in relation to an energy product purchased before April 1, 2013 if
 - (a) all or any portion of the consideration for the purchase of the energy product has neither been paid nor become due on or before the last day of the month immediately following the first month in which,
 - (i) in relation to a purchase of an energy product by way of sale, other than a purchase described in subparagraph (ii), the ownership or possession of the energy product is transferred to the purchaser, or
 - (ii) in relation to a purchase of an energy product by way of sale under which the seller delivers the energy product to the purchaser on approval, consignment, sale-or-return basis or other similar terms, the purchaser acquires ownership of the energy product or makes the energy product available to any person, other than the seller, and
 - (b) the last day of the month immediately following the first month referred to in paragraph (a) is before April 1, 2013.
 - (4) Subsection (3) does not apply in respect of a purchase of an energy product if the energy product is delivered or made available to the purchaser on a continuous basis by means of a wire, pipeline or other conduit and the seller invoices the purchaser in respect of that purchase on a regular or periodic basis.
 - (5) Despite subsection (3), if all or any portion of the consideration for the purchase of the energy product is not ascertainable before April 1, 2013, section 92 of the *Provincial Sales Tax Act* applies in respect of that or any portion of that consideration that becomes ascertainable on or after April 1, 2013.

Section 93 – energy product purchased in Canada and brought into British Columbia for use

- 23**
- (1) Subject to this section, section 93 of the *Provincial Sales Tax Act* applies in relation to an energy product that is purchased outside British Columbia but in Canada if delivery of the energy product is received in British Columbia before April 1, 2013.
 - (2) Section 93 of the *Provincial Sales Tax Act* does not apply in respect of any consideration for the energy product referred to in subsection (1) of this section that, before April 1, 2013, becomes due or is paid without having become due.
 - (3) Section 93 of the *Provincial Sales Tax Act* does not apply in relation to a purchase of an energy product referred to in subsection (1) of this section if

- (a) all or any portion of the consideration for the purchase of the energy product has neither been paid nor become due on or before the last day of the month immediately following the first month in which,
 - (i) in relation to a purchase of an energy product by way of sale, other than a purchase described in subparagraph (ii), the ownership or possession of the energy product is transferred to the purchaser, or
 - (ii) in relation to a purchase of energy product by way of sale under which the seller delivers the energy product to the purchaser on approval, consignment, sale-or-return basis or other similar terms, the purchaser acquires ownership of the energy product or makes the energy product available to any person, other than the seller, and
 - (b) the last day of the month immediately following the first month referred to in paragraph (a) is before April 1, 2013.
- (4) Subsection (3) does not apply in respect of a purchase of an energy product if the energy product is delivered to the purchaser on a continuous basis by means of a wire, pipeline or other conduit and the seller invoices the purchaser in respect of that purchase on a regular or periodic basis.
 - (5) Despite subsection (3), if all or any portion of the consideration for the purchase of the energy product is not ascertainable before April 1, 2013, section 93 of the *Provincial Sales Tax Act* applies in respect of that or any portion of that consideration that becomes ascertainable on or after April 1, 2013.

Section 93 – energy product brought into British Columbia from outside Canada

- 24** Section 93 of the *Provincial Sales Tax Act* applies in relation to an energy product if,
- (a) before April 1, 2013,
 - (i) the energy product is brought or sent into British Columbia from a place outside Canada, or
 - (ii) delivery of the energy product is received in British Columbia from a place outside Canada, and
 - (b) on or after April 1, 2013, the energy product is accounted for under section 32 (1), (2) (a) or (5) of the *Customs Act* (Canada) or released in the circumstances set out in section 32 (2) (b) of that Act.

Section 99 – purchase of exclusive product by independent sales contractor

- 25**
- (1) Subject to this section, section 99 (1) and (2) of the *Provincial Sales Tax Act* applies in relation to an exclusive product purchased before April 1, 2013.
 - (2) Section 99 (1) and (2) of the *Provincial Sales Tax Act* does not apply in respect of any consideration for the purchase of the exclusive product that, before April 1, 2013, becomes due or is paid without having become due.
 - (3) Section 99 (1) and (2) of the *Provincial Sales Tax Act* does not apply in relation to an exclusive product purchased before April 1, 2013 if

- (a) all or any portion of the consideration for the purchase of the exclusive product has neither been paid nor become due on or before the last day of the month immediately following the first month in which,
 - (i) in relation to a purchase of an exclusive product by way of sale, other than a purchase described in subparagraph (ii), the ownership or possession of the exclusive product is transferred to the independent sales contractor, or
 - (ii) in relation to a purchase of an exclusive product by way of sale under which the seller delivers the exclusive product to the independent sales contractor on approval, consignment, sale-or-return basis or other similar terms, the independent sales contractor acquires ownership of the exclusive product or makes the exclusive product available to any person, other than the seller, and
 - (b) the last day of the month immediately following the first month referred to in paragraph (a) is before April 1, 2013.
- (4) Subsection (3) does not apply in respect of a purchase of an exclusive product if the exclusive product is delivered or made available to the independent sales contractor on a continuous basis by means of a wire, pipeline or other conduit and the seller invoices the independent sales contractor in respect of that purchase on a regular or periodic basis.
 - (5) Despite subsection (3), if all or any portion of the consideration for the purchase of the exclusive product is not ascertainable before April 1, 2013, section 99 (1) and (2) of the *Provincial Sales Tax Act* applies in respect of that or any portion of that consideration that becomes ascertainable on or after April 1, 2013.

Section 99 – exclusive product purchased in Canada and brought into British Columbia

- 26**
- (1) Subject to this section, section 99 (3) and (4) of the *Provincial Sales Tax Act* applies in relation to an exclusive product that is purchased outside British Columbia but in Canada if delivery of the exclusive product is received in British Columbia before April 1, 2013.
 - (2) Section 99 (3) and (4) of the *Provincial Sales Tax Act* does not apply in respect of any consideration for the exclusive product referred to in subsection (1) of this section that, before April 1, 2013, becomes due or is paid without having become due.
 - (3) Section 99 (3) and (4) of the *Provincial Sales Tax Act* does not apply in relation to an exclusive product referred to in subsection (1) of this section if
 - (a) all or any portion of the consideration for the purchase of the exclusive product has neither been paid nor become due on or before the last day of the month immediately following the first month in which,
 - (i) in relation to a purchase of an exclusive product by way of sale, other than a purchase described in subparagraph (ii), the ownership or possession of the exclusive product is transferred to the independent sales contractor, or
 - (ii) in relation to a purchase of an exclusive product by way of sale under which the seller delivers the exclusive product to the independent sales contractor on approval, consignment, sale-or-return basis or other similar terms, the independent sales contractor acquires ownership of the exclusive product or makes the exclusive product available to any person, other than the seller, and
 - (b) the last day of the month immediately following the first month referred to in paragraph (a) is before April 1, 2013.

- (4) Subsection (3) does not apply in respect of a purchase of an exclusive product if the exclusive product is delivered to the independent sales contractor on a continuous basis by means of a wire, pipeline or other conduit and the seller invoices the independent sales contractor in respect of that purchase on a regular or periodic basis.
- (5) Despite subsection (3), if all or any portion of the consideration for the purchase of the exclusive product is not ascertainable before April 1, 2013, section 99 (3) and (4) of the *Provincial Sales Tax Act* applies in respect of that or any portion of that consideration that becomes ascertainable on or after April 1, 2013.

Section 99 – exclusive product brought into British Columbia from outside Canada

- 27** Section 99 (3) and (4) of the *Provincial Sales Tax Act* applies in relation to an exclusive product if,
- (a) before April 1, 2013,
 - (i) the exclusive product is brought or sent into British Columbia from a place outside Canada, or
 - (ii) delivery of the exclusive product is received in British Columbia from a place outside Canada, and
 - (b) on or after April 1, 2013, the exclusive product is accounted for under section 32 (1), (2) (a) or (5) of the *Customs Act* (Canada) or released in the circumstances set out in section 32 (2) (b) of that Act.

Section 101 (1) – reusable containers purchased in British Columbia

- 28** (1) Subject to this section, section 101 (1) of the *Provincial Sales Tax Act* applies in relation to a reusable container purchased before April 1, 2013.
- (2) Section 101 (1) of the *Provincial Sales Tax Act* does not apply in respect of any consideration for the reusable container that, before April 1, 2013, becomes due or is paid without having become due.
- (3) Section 101 (1) of the *Provincial Sales Tax Act* does not apply in relation to a reusable container purchased before April 1, 2013 if
- (a) all or any portion of the consideration for the purchase of the reusable container has neither been paid nor become due on or before the last day of the month immediately following the first month in which,
 - (i) in relation to a purchase of a reusable container by way of sale, other than a purchase described in subparagraph (ii), the ownership or possession of the reusable container is transferred to the person who purchased the reusable container, or
 - (ii) in relation to a purchase of a reusable container by way of sale under which the seller delivers the reusable container to the person on approval, consignment, sale-or-return basis or other similar terms, the person acquires ownership of the reusable container or makes the reusable container available to any person, other than the seller, and
 - (b) the last day of the month immediately following the first month referred to in paragraph (a) is before April 1, 2013.

- (4) Despite subsection (3), if all or any portion of the consideration for the purchase of the reusable container is not ascertainable before April 1, 2013, section 101 (1) of the *Provincial Sales Tax Act* applies in respect of that or any portion of that consideration that becomes ascertainable on or after April 1, 2013.

Section 101 (2) – reusable containers purchased in Canada and brought into British Columbia

- 29** (1) Subject to this section, section 101 (2) of the *Provincial Sales Tax Act* applies in relation to a reusable container that is purchased outside British Columbia but in Canada if, before April 1, 2013, delivery of the reusable container is received in British Columbia.
- (2) Section 101 (2) of the *Provincial Sales Tax Act* does not apply in respect of any consideration for the reusable container referred to in subsection (1) of this section that, before April 1, 2013, becomes due or is paid without having become due.
- (3) Section 101 (2) of the *Provincial Sales Tax Act* does not apply in relation to a purchase of a reusable container referred to in subsection (1) of this section if
- (a) all or any portion of the consideration for the purchase of the reusable container has neither been paid nor become due on or before the last day of the month immediately following the first month in which,
- (i) in relation to a purchase of a reusable container by way of sale, other than a purchase described in subparagraph (ii), the ownership or possession of the reusable container is transferred to the person who purchased the reusable container, or
- (ii) in relation to a purchase of a reusable container by way of sale under which the seller delivers the reusable container to the person on approval, consignment, sale-or-return basis or other similar terms, the person acquires ownership of the reusable container or makes the reusable container available to any person, other than the seller, and
- (b) the last day of the month immediately following the first month referred to in paragraph (a) is before April 1, 2013.
- (4) Despite subsection (3), if all or any portion of the consideration for the purchase of the reusable container is not ascertainable before April 1, 2013, section 101 (2) of the *Provincial Sales Tax Act* applies in respect of that or any portion of that consideration that becomes ascertainable on or after April 1, 2013.

Section 101 (2) – reusable containers brought into British Columbia from outside Canada

- 30** Section 101 (2) of the *Provincial Sales Tax Act* applies in relation to a reusable container if,
- (a) before April 1, 2013,
- (i) the reusable container is brought or sent into British Columbia from a place outside Canada, or
- (ii) delivery of the reusable container is received in British Columbia from a place outside Canada, and
- (b) on or after April 1, 2013, the reusable container is accounted for under section 32 (1), (2) (a) or (5) of the *Customs Act* (Canada) or released in the circumstances set out in section 32 (2) (b) of that Act.

Division 3 – Taxes in Relation to Software

Section 105 – purchase of software

- 31** Section 105 of the *Provincial Sales Tax Act* applies in relation to software purchased before April 1, 2013 except in respect of any consideration for the purchase of the software that, before that date, becomes due or is paid without having become due.

Section 106 – use of software on device in British Columbia

- 32** Section 106 of the *Provincial Sales Tax Act* applies in relation to software used before April 1, 2013, on or with an electronic device ordinarily situated in British Columbia, by a person referred to in section 106 (1) (a) (i) to (iv) or (b) (i) to (iv) except in respect of any consideration for the purchase of the software that, before that date, becomes due or is paid without having become due.

Section 107 – business use of software on devices in and outside British Columbia

- 33** (1) Section 107 of the *Provincial Sales Tax Act* applies to a purchaser referred to in subsection (1) (b) (i) of that section in relation to software purchased before April 1, 2013 except in respect of any consideration for the purchase of the software that, before that date, becomes due or is paid without having become due.
- (2) Section 107 of the *Provincial Sales Tax Act* applies to a purchaser referred to in subsection (1) (b) (ii) of that section in relation to software purchased before April 1, 2013 if the person, on or after April 1, 2013, uses the software or allows the software to be used on or with an electronic device ordinarily situated in British Columbia.

Section 112 – purchase of software by small seller

- 34** Section 112 of the *Provincial Sales Tax Act* applies in relation to software purchased before April 1, 2013 except in respect of any consideration for the purchase of the software that, before that date, becomes due or is paid without having become due.

Division 4 – Taxes in Relation to Taxable Services

Division 1 of Part 5 – services related to purchase

- 35** (1) Subject to this section, section 116 of the *Provincial Sales Tax Act* applies in relation to
- (a) tangible personal property acquired before April 1, 2013, and
 - (b) a contract referred to in section 116 (2) (b) of that Act that is entered into before April 1, 2013.
- (2) Subject to this section, section 117 of the *Provincial Sales Tax Act* applies in relation to a contract referred to in section 117 (2) (a) (i) or (ii) that is entered into before April 1, 2013.
- (3) Sections 116 and 117 of the *Provincial Sales Tax Act* do not apply in respect of a contract amount, as defined in those sections, that, before April 1, 2013, becomes due or is paid without having become due.
- (4) Despite subsection (3), if the purchaser of the taxable service referred to in paragraph (a) or (b) of the definition of “taxable service” in section 1 of the *Provincial Sales Tax Act* retains, under

- (a) a law of Canada or another province, or
- (b) an agreement in writing for the construction, renovation, alteration or repair of any real property or any ship or other marine vessel,

a portion of the consideration for the purchase of the taxable service pending full and satisfactory performance, or any part thereof, section 116 or 117 of the *Provincial Sales Tax Act* applies in respect of that portion of that consideration that becomes payable on or after April 1, 2013 and is not paid before April 1, 2013.

Section 119 – purchase of related service provided in British Columbia

- 36** (1) Subject to this section, section 119 of the *Provincial Sales Tax Act* applies in relation to a related service purchased before April 1, 2013.
- (2) Section 119 of the *Provincial Sales Tax Act* does not apply in respect of any consideration for the purchase of the related service that, before April 1, 2013, becomes due or is paid without having become due.
- (3) Despite subsection (2), if the purchaser of the related service retains, under
- (a) a law of Canada or another province, or
 - (b) an agreement in writing for the construction, renovation, alteration or repair of any real property or any ship or other marine vessel,
- a portion of the consideration for the purchase of the related service pending full and satisfactory performance, or any part thereof, section 119 of the *Provincial Sales Tax Act* applies in respect of that portion of that consideration that becomes payable on or after April 1, 2013 and is not paid before April 1, 2013.

Section 120 – related service provided outside British Columbia

- 37** (1) Subject to subsection (2), section 120 of the *Provincial Sales Tax Act* applies in relation to a related service provided before April 1, 2013 in respect of tangible personal property.
- (2) Section 120 of the *Provincial Sales Tax Act* does not apply in relation to a related service provided in respect of tangible personal property if, before April 1, 2013,
- (a) the tangible personal property is subsequently brought or sent into British Columbia, or
 - (b) delivery of the tangible personal property is subsequently received in British Columbia.

Sections 122 and 123 – tax on accommodation

- 38** Sections 122 and 123 of the *Provincial Sales Tax Act* apply in relation to accommodation purchased before April 1, 2013 except in respect of any consideration for the purchase of the accommodation that, before that date, becomes due or is paid without having become due.

Section 123.2 – change in use of accommodation acquired for resale

- 39** Section 123.2 of the *Provincial Sales Tax Act* applies to a person who purchased accommodation in British Columbia if any consideration for the purchase of the accommodation

- (a) becomes due on or after April 1, 2013, and
- (b) is not paid before April 1, 2013 without having become due.

Section 124 – refund in relation to new designated accommodation area

- 40** Section 124 of the *Provincial Sales Tax Act* does not apply to a purchaser of accommodation in a designated accommodation area if
- (a) the confirmation was received, the contract was entered into or the deposit was made before April 1, 2013, and
 - (b) the area that is the designated accommodation area was, on March 31, 2013, an area in respect of which section 3 of the *Hotel Room Tax Act* applied.

Sections 126 and 127 – legal services provided in British Columbia or to British Columbia resident

- 41** Sections 126 and 127 of the *Provincial Sales Tax Act* apply in relation to legal services purchased before April 1, 2013 except in respect of any consideration for the purchase of the legal services that, before that date, becomes due or is paid without having become due.

Section 130 – telecommunication service purchased in British Columbia

- 42** Section 130 of the *Provincial Sales Tax Act* applies in relation to a telecommunication service purchased before April 1, 2013 except in respect of any consideration for the purchase of the telecommunication service that, before that date, becomes due or is paid without having become due.

Section 131 – dedicated telecommunication services

- 43** Section 131 of the *Provincial Sales Tax Act* applies in relation to a dedicated telecommunication service purchased before April 1, 2013 except in respect of any consideration for the purchase of the dedicated telecommunication service that, before that date, becomes due or is paid without having become due.

Division 5 –Regulations in relation to the Provincial Sales Tax Act

Section 240 – regulations in relation to accommodation

- 44** Section 240 (2) of the *Provincial Sales Tax Act* does not apply if the Lieutenant Governor in Council is making a regulation under section 240 (1) (b), (c), (d) or (e) in relation to an area in respect of which, on March 31, 2013, section 3 of the *Hotel Room Tax Act* is declared to apply under a regulation under that Act.

Division 6 – General

Retroactive effect

- 46** This Part and the *Provincial Sales Tax Act* are retroactive to the extent necessary to give full force and effect to their provisions and must not be construed as lacking retroactive effect in relation to any matter by reason that they makes no specific reference to that matter.

Division 7 – Transitional Regulations

Transition – regulations

- 47** (1) Despite this Act, the *Provincial Sales Tax Act* or any other Act, the Lieutenant Governor in Council may make regulations as follows:
- (a) respecting any matter that the Lieutenant Governor in Council considers is not provided for, or is not sufficiently provided for, in this Act or the *Provincial Sales Tax Act*;
 - (b) making provisions that the Lieutenant Governor in Council considers appropriate for the purpose of more effectively bringing this Act and the *Provincial Sales Tax Act* into operation;
 - (c) making provisions that the Lieutenant Governor in Council considers appropriate for the purpose of preventing, minimizing or otherwise addressing any transitional difficulties encountered in bringing this Act or the *Provincial Sales Tax Act* into effect, including, without limitation, provisions making an exception to or a modification of a provision in an enactment or providing for the application or continued application of a previous enactment;
 - (d) resolving any errors, inconsistencies or ambiguities arising in this Act or the *Provincial Sales Tax Act*.
- (2) A regulation under subsection (1) may be made retroactive to April 1, 2013 or a later date, and if made retroactive is deemed to have come into force on the specified date.
- (3) To the extent of any conflict between a regulation under subsection (1) and another enactment, the regulation prevails.
- (4) This section is repealed on April 1, 2016.