
FINANCE STATUTES AMENDMENT ACT (No. 2), 2010
CHAPTER 18

Assented to June 3, 2010

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

British Columbia Railway Act

- 1** *Section 6 (1) of the British Columbia Railway Act, R.S.B.C. 1996, c. 36, is amended by striking out “the Hotel Room Tax Act or the Motor Fuel Tax Act” and substituting “the Hotel Room Tax Act, the Motor Fuel Tax Act or Part 7.1 of the South Coast British Columbia Transportation Authority Act”.*

Budget Measures Implementation Act, 2008

- 2** *Section 42 of the Budget Measures Implementation Act, 2008, S.B.C. 2008, c. 10, is repealed and the following substituted:*

42 *Sections 13.01 to 13.04 and 13.06 (1) (a) to (e), (2) and (3) are repealed.*

42.1 *Section 38 (1.01) is amended by repealing paragraph (h).*

- 3** *Section 126 is amended in the table by adding the following item as indicated:*

Item	Column 1 Provisions of Act	Column 2 Commencement
14.1	Section 42.1	By regulation of the Lieutenant Governor in Council, which may be made to bring section 42.1 into force on or after August 1, 2010 .

Budget Measures Implementation Act, 2010

- 4** *Section 74 of the Budget Measures Implementation Act, 2010, S.B.C. 2010, c. 2, is repealed and the following substituted:*

74 *The following Schedules are added:*

SCHEDULE 3

Current Year Taxes	Amount of Grant
\$1 120 or more	\$770
Less than \$1 120	Current Year Taxes minus \$350

SCHEDULE 4

Current Year Taxes	Amount of Grant
\$1 145 or more	\$1 045
Less than \$1 145	Current Year Taxes minus \$100 .

*Income Tax Act***5 Section 1 of the Income Tax Act, R.S.B.C. 1996, c. 215, is amended****(a) by adding the following subsections:**

(6.1) Section 261 [*Canadian and functional currency reporting*] of the federal Act applies for the purposes of this Act as follows:

- (a) subject to paragraphs (b) to (d) of this subsection, section 261 of the federal Act applies in respect of taxation years that begin on or after December 14, 2007;
- (b) the definition of “Canadian tax results” in section 261 (1) of the federal Act applies to all taxation years;
- (c) section 261 (2) [*Canadian currency requirement*] of the federal Act applies to all taxation years;
- (d) section 261 (15) [*amounts carried back*] of the federal Act applies on and after December 14, 2007.

(6.2) If section 261 (5) of the federal Act applies to a taxpayer in respect of a particular taxation year, that section, as it applies for the purposes of this Act, applies to the taxpayer in respect of the particular taxation year. ,

(b) in subsection (8) (e) by adding “subsection (6.1) of this section and” after “purposes of”, and

(c) in subsection (8) by adding the following paragraph:

(f) section 261.

6 Section 29 (1) (d) is amended by striking out “(8)” and substituting “(9)”.**7 Section 29 (2) is amended by adding the following subparagraph in paragraph (b):**

(ix) section 135 [*interactive digital media tax credit*].

8 Section 29 is amended

(a) in subsection (2.1) by renumbering paragraph (c) as paragraph (e),

(b) in subsection (2.1) by repealing paragraph (e) (i) and substituting the following:

(i) as a consequence of a taxing authority allocating or reallocating, under the *Corporation Capital Tax Act*, the corporation's net paid up capital for the year to a jurisdiction other than British Columbia, and,

(c) in subsection (2.2) by striking out "to "paragraph (4) (a) or (b)" must be read as "paragraph (4) (a), (b) or (c)" and' **and substituting** "to "paragraph (4) (a), (b) or (c)" must be read as "paragraph (4) (a), (b), (c) or (e)" and', **and**

(d) in subsection (2.2) in paragraph (c) by striking out "paragraph (4) (c)" **and substituting** "paragraph (4) (e)".

9 Section 29 (3) is amended

(a) by striking out "section 152 (4.2) (d)" **and substituting** "section 152 (4.2) (b)", **and**

(b) by renumbering paragraph (d) as paragraph (b).

10 Section 33 is repealed and the following substituted:

**Application of federal provision
– payments by corporations**

- 33** (1) Subject to subsection (2), section 157 of the federal Act applies for the purposes of this Act.
- (2) If a collection agreement is in effect, a corporation that pays amounts in respect of a taxation year calculated under section 157 (1) (a) (i), (ii) or (iii), (1.1) (a) (i), (ii) or (iii) or (1.5) (a) (i) or (ii) of the federal Act must pay amounts in respect of the year calculated under the same subparagraph of that section as it applies for the purposes of this Act.
- (3) In applying section 157 (3) and (3.1) of the federal Act for the purposes of this Act, the reference in section 157 (3) (e) and (3.1) (c) to "subsection 125.4 (3), 125.5 (3), 127.1 (1) or 127.41 (3)" must be read as "section 25 (5), 25.1 (5), 84, 98, 113 or 127 of this Act".

11 Section 33 (3) is amended by striking out "113 or 127" **and substituting** "113, 127 or 135".

12 Section 38 (1.01) is amended by striking out "paragraph:" **and substituting** "paragraphs:" **and by adding the following paragraph:**

(i) the amount, if any, by which

(i) the amount that would be deemed under section 135 of this Act to have been paid for the year by the person if that amount were calculated by reference to the information in the return or form filed under section 138 of this Act

exceeds

(ii) the amount that is deemed under section 135 of this Act to be paid for the year by the person.

Section 13

13 Section 40 (1) is amended

(a) by striking out “and” at the end of paragraph (b) and by adding the following paragraph:

(b.1) before mailing the notice of assessment for the year, where the taxpayer is a corporation and an amount is deemed under section 135 of this Act to have been paid on account of its tax payable under this Act for the year, refund all or part of any amount claimed in the return as an overpayment for the year, not exceeding the amount so deemed to have been paid, and , **and**

(b) in paragraph (c) by striking out “paragraph (a) or (b).” and substituting “paragraphs (a) to (b.1).”

14 Section 42 (2) (b) (iii) is amended by striking out “98 or 113,” and substituting “98, 113 or 135,”.

15 Section 47 (3) is amended by striking out “114 (2) and 128 (2)” and substituting “114 (2), 128 (2) and 138 (2)”.

16 Section 64 (5) (c) is amended by adding the following subparagraph:

(iii.2) to an official solely for the purposes of the administration or enforcement of Part 11.1 [*Inspections, Audits and Assessments*] of the *Forest Act*, .

17 Section 65 (3.1) (a) is amended by striking out “and the International Financial Activity Act, or” and substituting “, the International Business Activity Act or Part 11.1 of the Forest Act, or”.

18 Section 79 (1) is amended in the definition of “BC labour expenditure” by adding the following paragraph:

(d.1) an amount included in eligible salary and wages under section 134 (2) of this Act in respect of a tax credit claimed under that section by the corporation or by another corporation referred to in paragraph (b) or (c) of this definition, .

19 Section 80 (1) (d) is repealed and the following substituted:

(d) the producer of the production, or, in the case of an interprovincial co-production or a treaty co-production, the producer of the British Columbia portion of the production, is an individual who,

(i) by reason of being an individual described in section 2 (1) (a), is subject to tax under section 2 for the year preceding the year in which principal photography of the production begins, and

(ii) in the year preceding the year in which principal photography of the production begins, is a Canadian, .

20 Section 88 is amended

- (a) *in subsections (1) and (2) by striking out* “by the certifying authority or by the minister” *and substituting* “by the certifying authority, the Commissioner of Income Tax or the minister”, *and*
- (b) *in subsection (1) (b) (i) (B) by striking out* “certifying authority” *and substituting* “certifying authority, the Commissioner of Income Tax”.

21 Section 89 is amended

- (a) *in subsections (2) and (3) by striking out* “applicant corporation” *and substituting* “applicant corporation, the Commissioner of Income Tax”, *and*
- (b) *by adding the following subsection:*
- (4) If the Commissioner of Income Tax revokes a certificate issued under section 86, 87 or 87.1, the Commissioner of Income Tax must promptly give notice of that revocation, together with reasons for the revocation, to the applicant corporation, the certifying authority and the minister.

22 Section 90 (b) (ii) is amended by striking out “certifying authority” *and substituting* “certifying authority, the Commissioner of Income Tax”.**23 Section 92 is amended**

- (a) *in subsection (1) by adding* “or any decision made under section 88 by or on behalf of the Commissioner of Income Tax” *after* “minister”, *and*
- (b) *in subsections (2) (b) and (3) (a) by striking out* “certifying authority” *and substituting* “certifying authority, the Commissioner of Income Tax”.

24 Section 94 is repealed and the following substituted:**Minister and Commissioner may require information regarding certificates**

- 94** (1) The minister is entitled to obtain
- (a) from the certifying authority any information required by the minister respecting certificates issued, refused or revoked by the certifying authority, and
- (b) from the Commissioner of Income Tax any information required by the minister respecting certificates revoked by the Commissioner of Income Tax.
- (2) The Commissioner of Income Tax is entitled to obtain from the certifying authority any information required by the Commissioner of Income Tax respecting certificates issued, refused or revoked by the certifying authority.

25 Section 116 is amended by adding the following definition:

“ineligible program” means an eligible recognized program designed to certify or license an individual in a trade prescribed in respect of British Columbia for the purposes of the definition of “eligible apprentice” in section 127 (9) of the federal Act; .

26 Section 118 (1) (b) is amended by striking out “program” and substituting “program, other than an ineligible program,”.

27 Section 119 (1) is amended by striking out “and” at the end of paragraph (b), by adding “, and” at the end of paragraph (c) and by adding the following paragraph:

(d) meets any other prescribed requirements.

28 The following section is added:

Certification tax credit for individuals

119.1 (1) This section applies to an individual for a taxation year if the individual meets the following requirements:

- (a) the individual was resident in British Columbia at the end of December 31 of the taxation year;
- (b) the individual was not registered in an eligible recognized program or eligible training program referred to in paragraph (c) in the taxation year;
- (c) the individual has received a Certificate of Qualification from the Industry Training Authority in the taxation year
 - (i) for completing an eligible recognized program or an eligible training program, other than an ineligible program, after passing a challenge exam, or
 - (ii) for completing a prescribed eligible recognized program or a prescribed eligible training program, other than an ineligible program;
- (d) any other prescribed requirements.

(2) An individual may claim a tax credit for the taxation year in the amount that is the total of the following:

- (a) if the individual completed in the taxation year one or more eligible recognized programs with level 1 requirements or level 2 requirements for completion, \$1 000 for each of the eligible recognized programs completed in the taxation year;
- (b) if the individual completed in the taxation year one or more eligible training programs with level 3 requirements for completion, \$2 000 for each of the eligible training programs completed in the taxation year;

- (c) if the individual completed in the taxation year one or more eligible training programs with level 4 or higher requirements for completion, \$2 500 for each of the eligible training programs completed in the taxation year.

29 Section 120 is amended

(a) in subsection (1) (a) (i) by striking out “section 118 or 119” and substituting “section 118, 119 or 119.1”, and

(b) by repealing subsections (2) and (3) and substituting the following:

(2) An individual referred to in subsection (1) may claim a tax credit for a taxation year in the amount of 50% of the total of the following:

- (a) the amount the individual has claimed as a tax credit for the taxation year under section 118 [*basic tax credit for individuals*];
- (b) the amount the individual has claimed as a tax credit for the taxation year under section 119 [*completion tax credit for individuals*];
- (c) the amount the individual has claimed as a tax credit for the taxation year under section 119.1 [*certification tax credit for individuals*];
- (d) the amount the individual has received in the taxation year that is an amount referred to in section 56 (1) (n.1) of the federal Act [*federal apprenticeship incentive grant*].

30 Section 122 (2) (a) (ii) is amended by striking out “the eligible recognized program” and substituting “the eligible recognized program, other than an ineligible program.”

31 Section 124.1 (3) (b) is amended by striking out “15%” and substituting “5.5%”.

32 Section 131 (1) is amended

(a) in paragraph (h) by striking out “section 118 (1) (d)” and substituting “section 118 (1) (d), 119 (1) (d) or 119.1 (1) (d)”, and

(b) by adding the following paragraph:

- (i) prescribing eligible recognized programs or eligible training programs for the purposes of section 119.1 (1) (c) (ii).

33 Section 131 is amended

(a) in subsection (1) by striking out “Without limiting section 48 (1) and (2), the Lieutenant Governor in Council” and substituting “The Commissioner of Income Tax”,

(b) by repealing subsection (1) (a) and (h),

(c) in subsection (2) by striking out “Lieutenant Governor in Council” and substituting “Commissioner of Income Tax”,

(d) by adding the following subsection:

(2.1) Without limiting section 48 (1) and (2), the Lieutenant Governor in Council may make regulations as follows:

- (a) defining any word or expression used in this Part;
- (b) prescribing requirements for the purposes of section 118 (1) (d), 119 (1) (d) or 119.1 (1) (d)., *and*

(e) in subsection (3) by adding “or (2.1)” after “subsection (1)”.

34 The following Part is added:

PART 10 – INTERACTIVE DIGITAL MEDIA TAX CREDIT

Definitions

132 In this Part:

“**eligible activities**”, in relation to an interactive digital media product, means eligible activities as defined by regulation;

“**interactive digital media product**” means a product that

- (a) consists of a combination of application files and data files, in a digital format, that are integrated and are intended to be operated together,
 - (b) is designed primarily to educate, inform or entertain the user,
 - (c) is capable of presenting information in at least two of the following forms:
 - (i) text;
 - (ii) sound;
 - (iii) images,
 - (d) is intended to be used interactively by individuals, and
 - (e) is developed in British Columbia,
- but does not include a prescribed product;

“**taxable Canadian corporation**” has the same meaning as in the federal Act.

Eligibility for tax credit

133 (1) Subject to subsection (3), a corporation is eligible for a tax credit under this Part for a taxation year if the corporation meets the following criteria:

- (a) the corporation is registered under section 136 for the taxation year;
- (b) the corporation has a permanent establishment in British Columbia at any time during the taxation year;

- (c) the corporation is a taxable Canadian corporation throughout the taxation year;
 - (d) either
 - (i) the corporation's principal business in the taxation year is the development of interactive digital media products, or
 - (ii) all or substantially all of the corporation's business in the taxation year consists of one or both of the following:
 - (A) the development of interactive digital media products;
 - (B) the provision of eligible activities to a corporation who has a permanent establishment in British Columbia and whose principal business is the development of interactive digital media products;
 - (e) the amount equal to the eligible salary and wages, as determined under section 134 (2) in respect of the corporation for the taxation year, is greater than \$100 000.
- (2) If a corporation has a taxation year of less than 365 days, the reference in subsection (1) (e) to \$100 000 is to be read in respect of the corporation as a reference to the amount equal to that proportion of \$100 000 that the number of days in the taxation year bears to 365.
- (3) A corporation is not eligible for a tax credit under this Part for a taxation year if the corporation claims a tax credit for the taxation year under Part 6 or the corporation, at any time in the taxation year,
- (a) is exempt from tax under section 27,
 - (b) has taxable income that is exempt from tax under Part I of the federal Act,
 - (c) is prescribed, under the federal Act, to be a labour-sponsored venture capital corporation for the purpose of section 127.4 of that Act,
 - (d) has an employee share ownership plan registered under section 2 of the *Employee Investment Act*,
 - (e) is an employee venture capital corporation registered under section 8 of the *Employee Investment Act*,
 - (f) is a small business venture capital corporation registered under section 3 of the *Small Business Venture Capital Act*,
 - (g) is an eligible business corporation registered under Part 2 of the *Small Business Venture Capital Act*,
 - (h) is controlled directly or indirectly in any manner whatever by one or more corporations described in paragraphs (a) to (g), or
 - (i) carries on a personal services business, as defined in section 125 (7) of the federal Act.

Section 34

Interactive digital media tax credit**134** (1) In this section:

“**salary or wages**” has the same meaning as in section 248 of the federal Act, but does not include

- (a) an amount described in section 7 of the federal Act,
- (b) in relation to a corporation, remuneration based on profits or a bonus, if the remuneration or bonus is in respect of a specified employee of the corporation, or
- (c) in relation to a corporation for a taxation year, expenses incurred by the corporation in the taxation year in respect of salary or wages, as defined in section 248 of the federal Act, of a specified employee of the corporation to the extent that those expenses exceed the amount determined by the formula in section 37 (9.1) of the federal Act for the taxation year;

“**specified employee**” has the same meaning as in section 248 of the federal Act.

(2) A corporation that is eligible under section 133 may claim a tax credit for a taxation year in the amount equal to 17.5% of the amount determined by the following formula:

$$\text{amount} = \text{eligible salary and wages} - \text{designated assistance}$$

where

designated assistance = the total of all amounts that would be included under section 12 (1) (x) of the federal Act in computing the income of the corporation for the taxation year if that section were read without reference to subparagraphs (v) to (vii) of that section and that can reasonably be considered to be in respect of eligible salary and wages, but does not include

- (a) a prescribed amount,
- (b) an amount deemed to have been paid under section 135 of this Act, or
- (c) an amount deducted under section 127 (5) or (6) of the federal Act;

eligible salary and wages = the total salary or wages that

- (a) are directly attributable to eligible activities,
- (b) are incurred
 - (i) by the corporation in the taxation year,
 - (ii) on or after September 1, 2010, and
 - (iii) before September 1, 2015,

- (c) are paid to an individual who was resident in British Columbia at the end of December 31 of the year preceding the end of the taxation year for which a tax credit is claimed under this Part, and
- (d) are
 - (i) included in the cost to, or in the case of depreciable property the capital cost to, the corporation of a property in the taxation year, or
 - (ii) deductible as an outlay or expense in computing the income of the corporation for the taxation year.

Deemed payment

- 135** A corporation that has claimed and is eligible for a tax credit under this Part for a taxation year is deemed to have paid, at the time referred to in section 157 (1) (b) of the federal Act, as that section relates to the taxation year, the amount of the credit on account of its tax payable under this Act.

Registration

- 136** (1) A corporation may apply to the Commissioner of Income Tax to have the corporation registered for the purposes of claiming a tax credit under this Part for a taxation year.
- (2) In applying under subsection (1) to be registered, a corporation must provide the following to the Commissioner of Income Tax:
- (a) an application in the form, and containing the information, required by the Commissioner of Income Tax;
 - (b) any other information or records required by the Commissioner of Income Tax;
 - (c) the prescribed application fee.
- (3) On receiving an application under this section, the Commissioner of Income Tax must register the applicant corporation if the Commissioner of Income Tax is satisfied, on the basis of the information provided by the corporation and any other information available to the Commissioner of Income Tax, that the corporation, if registered, is or will be eligible for a tax credit under this Part for the taxation year.
- (4) If the Commissioner of Income Tax refuses to register an applicant corporation, the Commissioner of Income Tax must issue a notice of refusal of registration to the corporation.

Section 34

- (5) If the Commissioner of Income Tax is satisfied that a corporation that has been registered is not or will not be eligible for a tax credit under this Part for a taxation year, the Commissioner of Income Tax may cancel the registration of the corporation for the taxation year by issuing a notice of cancellation to the corporation.
- (6) A corporation must register under this section for each taxation year for which a tax credit is claimed under this Part.

Reconsiderations and appeals

- 137**
- (1) Any decision made under this Part by or on behalf of the Commissioner of Income Tax may be reconsidered and confirmed, reversed or varied by or on behalf of the Commissioner of Income Tax.
 - (2) Without limiting any provision of this Act or the federal Act, a corporation may appeal, in accordance with subsection (3), any of the following:
 - (a) a decision of the Commissioner of Income Tax to refuse to register a corporation under section 136;
 - (b) a decision of the Commissioner of Income Tax to cancel the registration of a corporation under section 136.
 - (3) An appeal must be brought in the Supreme Court, by way of a petition proceeding, within 120 days after the date of any notice of the decision provided by the Commissioner of Income Tax.

Filing requirements

- 138**
- (1) A corporation that wishes to claim a tax credit under this Part in respect of a taxation year must file, with the return of income filed by the corporation under section 29 for that taxation year, an application for the tax credit in the form, and containing the information, required by the Commissioner of Income Tax.
 - (2) A corporation is not entitled to a tax credit under this Part in respect of a taxation year unless, within 18 months after the end of the taxation year, the corporation files the form containing the information required under subsection (1).

Powers of audit

- 139**
- Without limiting any provision of this Act or the federal Act, for the purpose of determining whether a corporation is eligible for a tax credit under this Part, the Commissioner of Income Tax has powers equivalent to the federal minister under sections 230 (3), 231, 231.1 and 233 (1) of the federal Act, and for that purpose those sections apply.

Power to make regulations

- 140**
- (1) Without limiting section 48 (1) and (2), the Lieutenant Governor in Council may make regulations as follows:
 - (a) defining eligible activities;

- (b) defining any word or expression used in this Part;
 - (c) prescribing products not included in the definition of “interactive digital media product” in section 132;
 - (d) prescribing an amount for the purpose of paragraph (a) of the description of “designated assistance” in section 134 (2);
 - (e) prescribing an application fee for the purpose of section 136 (2) (c).
- (2) In making regulations under subsection (1), 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) define classes of corporations and make different regulations for different classes of corporations.
- (3) Regulations made under subsection (1) may be made retroactive to September 1, 2010 or a later date, and if made retroactive are deemed to have come into force on the specified date.

International Financial Activity Act

- 35 *The title of the International Financial Activity Act, S.B.C. 2004, c. 49, is repealed and the following substituted:*

INTERNATIONAL BUSINESS ACTIVITY ACT .

- 36 *Section 1 is amended*

- (a) *in the definition of “claimant” by repealing paragraph (b) and substituting the following:*
 - (b) an IB specialist or an individual who previously was an IB specialist; ,
- (b) *in paragraph (a) of the definition of “international financial business” by striking out “a qualifying business” and substituting “a qualifying financial business”;*
- (c) *by repealing the definition of “IFA specialist” and substituting the following:*

“**IFA specialist**” means an individual who was first registered under section 14 before March 4, 2010; ,
- (d) *by repealing the definition of “qualifying business”;*
- (e) *by adding the following definitions:*

“**designated international business**” means a designated international business specified in the regulations;

“**IB specialist**” means an individual who is registered under section 14 or who is an IFA specialist;

Section 37

“international business” in relation to a corporation, means the following types of businesses:

- (a) international financial business;
- (b) international film distribution business;
- (c) international patent business;

“international film distribution business” means an international film distribution business that meets the requirements of the regulations and, if required under the regulations, is certified in accordance with the regulations;

“international patent business” means an international patent business that meets the requirements of the regulations and, if required under the regulations, is certified in accordance with the regulations;

“qualifying financial business” means a qualifying financial business under the regulations;

“qualifying transaction” means a qualifying transaction under the regulations; ,

(f) by adding the following definitions:

“international carbon trading and certification business” means an international carbon trading and certification business that meets the requirements of the regulations and, if required by the regulations, is certified in accordance with the regulations;

“international clean technology business” means an international clean technology business that meets the requirements of the regulations and, if required under the regulations, is certified in accordance with the regulations;

“international digital media distribution business” means an international digital media distribution business that meets the requirements of the regulations and, if required under the regulations, is certified in accordance with the regulations; ,
and

(g) in the definition of “international business” by adding the following paragraphs:

- (d) international digital media distribution business;
- (e) international carbon trading and certification business;
- (f) international clean technology business.

37 Section 2 (2) (q), (q.1), (q.2) and (r.1) is repealed.

38 Section 2 is amended

(a) in subsection (1) by repealing paragraph (a) of the definition of “non-resident person” and substituting the following:

- (a) a partnership unless,
 - (i) subject to subparagraph (ii), all of the partners of the partnership are non-resident persons, or

(ii) in relation to subsection (2) (1.1), the partnership is within a prescribed class of partnerships, or ,

(b) by repealing subsection (2) (a) to (d) and substituting the following:

- (a) accepting deposits in any currency from a non-resident person;
- (b) making deposits in any currency with a non-resident person;
- (c) making loans in any currency to a non-resident person;
- (d) borrowing in any currency from a non-resident person; ,

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

- (1.1) providing, to a non-resident person, prescribed investment services
 - (i) for a fee or commission, and
 - (ii) with respect to an investment fund,that meet the conditions set out in the regulations; ,

(d) in subsection (3) by striking out “subsection (2) (f),” and substituting “subsection (2) (c), (d), (f),” and

(e) by adding the following subsection:

- (3.1) An activity referred to in subsection (2) (a) to (d) is not an international financial activity unless the corporation carries on the activity as principal in a debtor creditor relationship.

39 Section 11 is amended by striking out “international financial business” wherever it appears and substituting “international business”.

40 Section 13 is amended

(a) in subsection (1) by striking out “A registered corporation” and substituting “A corporation that carries on an international financial business and that is a registered corporation”,

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

- (a) the individual is a specialist in an international financial activity, other than the type of activity referred to in section 2 (2) (r) and (s); ,

(c) in subsection (1) (b) by striking out “other than activities referred to in section 2 (2) (q.1), (q.2), (r), (r.1) and (s), in which the individual is a specialist;” and substituting “in which the individual is required to be a specialist under paragraph (a);”;

(d) in subsection (1) (c) (ii) by striking out “IFA specialist;” and substituting “IB specialist;”, and

(e) by repealing subsections (2) and (3).

41 The following sections are added:**Application for registration of administrative support specialists**

- 13.1** (1) This section applies to a corporation that
- (a) carries on an international financial business that includes international financial activities referred to in section 2 (2) (r) or (s), and
 - (b) is a registered corporation or has applied for registration under this Act.
- (2) Subject to this section, a corporation may apply to the commissioner for the registration of an individual as a specialist if the individual meets all of the following requirements:
- (a) the individual is a specialist in an international financial activity referred to in section 2 (2) (r) or (s);
 - (b) the individual has entered into a written employment contract with the corporation that requires the individual to work for the corporation in relation to the international financial business of the corporation;
 - (c) the individual was
 - (i) non-resident immediately before entering into the written employment contract with the corporation, or
 - (ii) previously registered as an IB specialist;
 - (d) the individual meets the prescribed requirements.
- (3) A corporation may not apply to register a specialist under this section if the combined total of specialists registered on the basis that the individuals met all of the requirements of subsection (2) for the corporation and all affiliated corporations of the corporation is 4 or more.

Application for registration of executive specialists

- 13.2** (1) Subject to this section, a corporation that carries on an international business and that is a registered corporation or a corporation that has applied for registration may apply to the commissioner for the registration of an individual as a specialist if the individual meets all of the following requirements:
- (a) the individual is a member of the executive management of the corporation;
 - (b) the individual has entered into a written employment contract with the corporation that requires the individual to work for the corporation in relation to the international business of the corporation;
 - (c) the individual was
 - (i) non-resident immediately before entering into the written employment contract with the corporation, or
 - (ii) previously registered as an IB specialist;
 - (d) the individual meets the prescribed requirements.

- (2) A corporation may not apply to register a specialist under this section if the combined total of specialists registered on the basis that the individuals met all of the requirements of subsection (1) for the corporation and all affiliated corporations of the corporation is 2 or more.

**Application for registration of specialists
in designated international business**

13.3 A corporation that carries on a designated international business and that is a registered corporation or a corporation that has applied for registration may apply to the commissioner for the registration of an individual who meets all of the following requirements:

- (a) the individual is a specialist in the type of business carried on by the designated international business that employs the individual;
- (b) the individual has entered into a written employment contract with the corporation that requires the individual to devote at least 70% of the individual's working time to performing activities in which the individual is a specialist for the corporation's designated international business;
- (c) the individual was
 - (i) non-resident immediately before entering into the written employment contract with the corporation, or
 - (ii) previously registered as an IB specialist;
- (d) the individual meets the prescribed requirements.

General rules for applications for specialist

13.4 (1) The corporation must submit to the commissioner on behalf of an individual who meets the requirements set out in section 13, 13.1, 13.2 or 13.3, as the case may be,

- (a) an application for registration in the form and containing the information required by the commissioner, and
- (b) with the application, any other information or records required by the commissioner.

(2) The commissioner may

- (a) request any additional information or records, and
- (b) make any inquiries

the commissioner considers necessary for the evaluation of the application.

Section 42

42 Section 14 is amended

(a) *in subsection (1) by striking out* “requirements of section 13 and the corporation complies with section 13,” *and substituting* “requirements of section 13, 13.1, 13.2 or 13.3, as the case may be, and the corporation complies with section 13, 13.1, 13.2 or 13.3, as the case may be, and section 13.4,” *and by striking out* “an IFA specialist” *and substituting* “an IB specialist”, *and*

(b) *by adding the following subsection:*

(5) An individual registered under subsection (1) may be registered as an IB specialist with respect to one of the following:

- (a) section 13;
- (b) section 13.1;
- (c) section 13.2;
- (d) section 13.3.

43 Section 15 (5) is amended by striking out “subsection (2)” *and substituting* “subsection (1), (2)”.

44 Section 16 (1) (a) is amended by striking out “IFA specialist” *and substituting* “IB specialist”.

45 Section 17 is repealed and the following substituted:

Tax refund

17 A corporation that was a registered corporation at any time in a taxation year may claim a tax refund for the taxation year not exceeding the amount calculated by the following formula:

$$\text{tax refund} = \text{eligible proportion} \times \text{net tax payable}$$

where

eligible proportion = the corporation’s eligible proportion of income for the taxation year as determined under section 18;

net tax payable = the corporation’s net tax payable for the taxation year as determined under section 19.1.

46 Section 17.1 is amended

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

(b) while the corporation was a registered corporation in the taxation year, the corporation carried on an international patent business; ,

(b) *in subsection (2) by striking out* “A corporation’s eligible refund for a taxation year is the least of the following:” *and substituting* “The eligible refund that a corporation may claim for a taxation year under subsection (1) is the least of the following:”, *and*

(c) *in subsection (4) by adding* “referred to in subsection (3)” *after* “The agreement”.

47 Section 18 is amended

(a) *by striking out* “total adjusted IFB income” *wherever it appears and substituting* “total adjusted IB income”,

(b) *in subsection (1) by striking out* “the corporation’s total adjusted IFB income for the taxation year.” *and substituting* “the corporation’s total adjusted IB income for the taxation year, as determined under section 19, 19.01 or 19.02, whichever is applicable.”, *and*

(c) *by adding the following subsection:*

(3) A corporation’s eligible proportion of income for a taxation year is zero if the corporation’s income as determined under section 3 of the federal Act for the taxation year is zero.

48 Section 19 is repealed and the following substituted:

Total adjusted IB income for international financial business

19 If a corporation claims a tax refund under section 17 in respect of an international financial business, for the purpose of section 18, the corporation’s total adjusted IB income for a taxation year is the total of all amounts, each of which is the corporation’s adjusted IB income, as calculated by the following formula, for the taxation year from a particular source that is an international financial business carried on by the corporation:

$$\text{adjusted IB income} = \text{IB income} - (\text{foreign dividends} + \text{inducements})$$

where

IB income = the total of the following:

- (a) the income or loss, as determined under Subdivision b of Division B of Part I of the federal Act, of the international financial business as if the business’s only income for the taxation year was from international financial activities for that part of the taxation year that the corporation was a registered corporation;
- (b) if the corporation is not a securities corporation, the income earned or loss incurred by the international financial business in the taxation year because of a fluctuation in the value of a currency of a country other than Canada relative to Canadian currency in respect of a prescribed foreign currency agreement that is incident to an international financial activity the income from which is included in paragraph (a) of this description;

Section 48

foreign dividends = the amount included under section 12 (1) (k) of the federal Act in computing the IB income of the international financial business for the taxation year in respect of which the corporation makes a deduction under section 113 of the federal Act;

inducements = the amount included under section 12 (1) (x) of the federal Act in computing the IB income of the international financial business for the taxation year.

Total adjusted IB income for international business other than international financial business and international patent business

- 19.01** (1) In this section, “**international business**” means a type of international business other than an international financial business or an international patent business.
- (2) If a corporation claims a tax refund under section 17 in respect of an international business, for the purpose of section 18, the corporation’s total adjusted IB income for a taxation year is the total of all amounts, each of which is the corporation’s adjusted IB income, as calculated by the following formula, for the taxation year from a particular source that is that type of an international business carried on by the corporation:

$$\text{adjusted IB income} = \text{IB income} - (\text{foreign dividends} + \text{inducements})$$

where

IB income = the total of the following:

- (a) the income or loss, as determined under Subdivision b of Division B of Part I of the federal Act, of the international business as if the business’s only income for the taxation year was from qualifying transactions of the type of international business for which a claim is made under this Act by the corporation for that part of the taxation year that the corporation was a registered corporation;
- (b) the income earned or loss incurred by the international business in the taxation year because of a fluctuation in the value of a currency of a country other than Canada relative to Canadian currency in respect of a prescribed foreign currency agreement that is incident to a qualifying transaction of the international business the income from which is included in paragraph (a) of this description;

foreign dividends = the amount included under section 12 (1) (k) of the federal Act in computing the IB income of the international business for the taxation year in respect of which the corporation makes a deduction under section 113 of the federal Act;

inducements = the amount included under section 12 (1) (x) of the federal Act in computing the IB income of the international business for the taxation year.

Total adjusted IB income for international patent business

19.02 If a corporation claims a tax refund under section 17.1 in respect of an international patent business, for the purpose of section 18, the corporation's total adjusted IB income for a taxation year is the total of all amounts, each of which is the corporation's adjusted IB income, as calculated by the following formula, for the taxation year from a particular source that is an international patent business carried on by the corporation:

$$\text{adjusted IB income} = \text{IB income} - (\text{foreign dividends} + \text{inducements})$$

where

IB income = the total of the following:

- (a) the income or loss, as determined under Subdivision b of Division B of Part I of the federal Act, of the international patent business as if the business's only income for the taxation year was from qualifying transactions of the international patent business for that part of the taxation year that the corporation was a registered corporation;
- (b) the income earned or loss incurred by the international patent business in the taxation year because of a fluctuation in the value of a currency of a country other than Canada relative to Canadian currency in respect of a prescribed foreign currency agreement that is incident to a qualifying transaction of the international patent business the income from which is included in paragraph (a) of this description;

foreign dividends = the amount included under section 12 (1) (k) of the federal Act in computing the IB income of the international patent business for the taxation year in respect of which the corporation makes a deduction under section 113 of the federal Act;

inducements = the amount included under section 12 (1) (x) of the federal Act in computing the IB income of the international patent business for the taxation year.

Matters related to calculation of IB income

- 19.03** (1) If a corporation cancels its registration during a taxation year, the commissioner may calculate the corporation's total adjusted IB income as if the corporation were registered throughout the taxation year.
- (2) For the purpose of calculating under section 19, 19.01 or 19.02 the IB income of a corporation's international business, for a taxation year, the corporation must deduct for the taxation year all amounts that have been deducted by the corporation in determining the corporation's income or loss under Subdivision b of Division B of Part 1 of the federal Act for the purposes of that Act for the taxation year that
- (a) relate to the type of international business for which a claim is made under this Act by the corporation, or
 - (b) are amounts paid or payable by the corporation as salary, wages or other remuneration or benefits to an individual registered under section 14 (5) (b) or (c) for all or part of the year during which the individual was registered, whether or not the amounts relate to a type of international business.

49 *Section 19.1 (b) (ii) is amended by adding the following clause:*

(F) section 135 [*interactive digital media tax credit*].

50 *Section 20 (2) and (3) is amended by striking out "IFB income" and substituting "IB income".*

51 *The heading to Division 2 in Part 3 is repealed and the following substituted:*

Division 2 – IB Specialists .

52 *Section 21 is amended*

- (a) by renumbering the section as section 21 (1),*
- (b) in subsection (1) (a) by striking out "IFA specialist" and substituting "IB specialist",*
- (c) by repealing subsection (1) (d) and substituting the following:*
 - (d) the individual meets the requirements set out in subsections (2) to (8) of this section and in the regulations. , and*
- (d) by adding the following subsections:*

- (2) If an individual was registered as an IB specialist under section 14 (5) (a), the individual, for the part of the taxation year the individual was an IB specialist, must have devoted at least 70% of the individual's working time to performing, for the corporation's international financial businesses, international financial activities in which the individual is a specialist other than activities referred to in section 2 (2) (r) and (s).

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- (3) If an individual was registered as an IB specialist under section 14 (5) (b), the individual, for the part of the taxation year the individual was an IB specialist, must have worked in the international financial business of the corporation.
- (4) If an individual was registered as an IB specialist under section 14 (5) (c), the individual, for the part of the taxation year the individual was an IB specialist, must have worked in the international business of the corporation.
- (5) If an individual was registered as an IB specialist under section 14 (5) (d), the individual, for the part of the taxation year the individual was an IB specialist, must have devoted at least 70% of the individual's working time to performing activities in which the individual is a specialist for the corporation's designated international business.
- (6) In subsections (7) and (8), "**remuneration**" means remuneration as defined in the regulations.
- (7) If an individual was registered as a specialist and has met the requirements under subsection (2), (3) or (5), as the case may be, the individual must have received,
- (a) if the individual was registered as an IB specialist for the taxation year, remuneration that is \$100 000 or more, or
 - (b) if the individual was registered as an IB specialist for a portion of the taxation year, remuneration that is \$274 or more for each day in the taxation year the individual was registered.
- (8) If an individual was registered as a specialist and has met the requirements under subsection (4), the individual must have received,
- (a) if the individual was registered as an IB specialist for the taxation year, remuneration that is \$250 000 or more, or
 - (b) if the individual was registered as an IB specialist for a portion of the taxation year, remuneration that is \$685 or more for each day in the taxation year the individual was registered.

53 Section 22 is amended

- (a) *by renumbering the section as section 22 (1),*
- (b) *by striking out "tax refund = eligible proportion × net tax payable × 75%" and substituting the following:*

tax refund = eligible proportion × net tax payable × $\frac{\text{the applicable percentage set out in subsection (2) or (4), as the case may be}}{\text{the applicable percentage set out in subsection (2) or (4), as the case may be}}$, *and*

- (c) *by adding the following subsections:*

- (2) For the purposes of subsection (1), the applicable percentage is the total of the following:

Section 54

- (a) for the first year of the specified period, 100% of the proportion of the number of days in the individual's taxation year that are included in the specified period is of the number of days of the reference period;
- (b) for the second year of the specified period, 100% of the proportion of the number of days in the individual's taxation year that are included in the specified period is of the number of days of the reference period;
- (c) for the third year of the specified period, 75% of the proportion of the number of days in the individual's taxation year that are included in the specified period is of the number of days of the reference period;
- (d) for the fourth year of the specified period, 50% of the proportion of the number of days in the individual's taxation year that are included in the specified period is of the number of days of the reference period;
- (e) for the fifth year of the specified period, 25% of the proportion of the number of days in the individual's taxation year that are included in the specified period is of the number of days of the reference period.

(3) In subsection (2):

“specified period”, in relation to an individual, means the period that begins on the day the individual was first registered under section 14 and ends no later than 5 years after that date;

“reference period”, in relation to an individual, means the number of days in the taxation year the individual was registered under this Act.

(4) Despite subsection (2), the applicable percentage for an IFA specialist is 75% for that part of the taxation year with respect to which the individual was registered.

54 Section 23 is amended

- (a) in subsection (1) by striking out “IFA specialist” and substituting “IB specialist”,*
- (b) in subsections (1), (2) and (3) by striking out “IFB income” and substituting “IB income”, and*
- (c) in subsections (1) and (3) by striking out “international financial business” and substituting “international business”.*

55 Section 24 (1) is amended by striking out “IFA specialist,” and substituting “IB specialist.”

56 Section 26 is amended

- (a) in subsections (1) and (4) by striking out “IFA specialist” and substituting “IB specialist”, and*
- (b) in subsection (3) by striking out “international financial business” and substituting “international business”.*

57 Section 32 is amended by adding the following subsection:

- (3) A tax refund is not payable to an individual who is eligible to claim a refund under section 21 until the reports, records and any other information required under section 26 are filed with the commissioner.

58 Section 36 is amended

- (a) *in subsection (2) (c) by adding “, records and any other information” after “a report”, and*
- (b) *in subsection (3) by striking out “IFB income” in both places and substituting “IB income”.*

59 Section 51 is amended

- (a) *in the definition of “avoidance transaction” in subsection (1) by adding the following paragraph:*
- (c.1) to have been undertaken or arranged primarily for the purpose of carrying on a bona fide qualifying transaction of an international business other than an international financial business, or , *and*
- (b) *in subsection (3) (a) and (b) by striking out “IFB income” and substituting “IB income”.*

60 Section 52 (1) (c) (ii) is amended

- (a) *by striking out “IFB income” and substituting “IB income”, and*
- (b) *by striking out “international financial business” and substituting “international business”.*

61 Section 65 is amended

- (a) *in subsection (2) by adding the following paragraphs:*
- (c) prescribing the requirements for the following:
- (i) international film distribution business;
 - (ii) international patent business;
 - (iii) international digital media distribution business;
 - (iv) international carbon trading and certification business;
 - (v) international clean technology business;
- (d) without limiting paragraph (c), respecting the certification of the businesses referred to in that paragraph;
- (e) respecting any other matter for which regulations are contemplated by this Act. , *and*

(b) by adding the following subsections:

- (5) A regulation under this Act may adopt by reference, in whole, in part or with any changes considered appropriate, a regulation, code, standard or rule
- (a) enacted as or under a law of another jurisdiction, including a foreign jurisdiction, or
 - (b) set by a provincial, national or international body or any other code, standard or rule-making body,
- as the regulation, code, standard or rule stands at a specific date, as it stands at the time of adoption or as amended from time to time.
- (6) Regulations made under this section, other than the regulations referred to in subsection (4), may be made retroactive to a date on or after March 3, 2010 and if made retroactive are deemed to have come into force on the date specified in the regulations.

Land Tax Deferment Act***62 Section 4 of the Land Tax Deferment Act, R.S.B.C. 1996, c. 249, is amended by adding the following subsection:***

- (1.1) Despite subsection (1), the agreement is not terminated under subsection (1) by reason only that a portion of the owner's interest in the eligible property is transferred to the spouse of the owner after an amending agreement is made under section 7.1.

63 The following sections are added:**Amending agreement and transferring to spouse**

- 7.1** (1) In this section:
- “amending agreement”** means an agreement that amends an original agreement;
 - “original agreement”** means an agreement made under section 2.
- (2) By filing an application in accordance with subsection (3) and the regulations, an owner of eligible property who is deferring taxes under an original agreement and the spouse of the owner may request the minister to enter into an amending agreement if the following requirements are met:
- (a) the owner declares that the owner intends to transfer a portion of the owner's interest in the eligible property to the spouse of the owner;
 - (b) the owner and the spouse of the owner agree to enter into the amending agreement requested under this subsection.
- (3) An application under subsection (2) must be filed with the minister.
- (4) If the minister is satisfied that the owner and the spouse of the owner have met the requirements in subsection (2), the minister may approve the application.

- (5) On approving the application, the minister must
 - (a) make an amending agreement with the owner and the spouse of the owner as prescribed, and
 - (b) for the purposes of section 11 (1) (c) or (4) (b), provide consent for the transfer of a portion of the owner's interest in the eligible property to the spouse of the owner.
- (6) An amending agreement made under subsection (5) takes effect when the transfer of a portion of the owner's interest in the eligible property to the spouse of the owner
 - (a) is registered in the land title office, or
 - (b) in the case of eligible property that is or that includes a manufactured home, is given effect by filing a notice of transfer under the *Manufactured Home Act*.
- (7) An amending agreement must provide that the spouse of the owner is liable for all past and future taxes deferred under the original agreement and any interest on the deferred taxes.
- (8) The minister's decision respecting an application under this section is final.

Registration of amending agreement

- 7.2** (1) On receiving from the minister an amending agreement made under section 7.1, the registrar of the land title office must register it as a modification to the registered charge created under section 7.
- (2) If an amending agreement is made under section 7.1 with an owner referred to in section 5 (2), (2.2) or (2.4), the minister must amend the financing statement registered under section 7 (2) by registering a financing change statement in the personal property registry established under the *Personal Property Security Act* in the form and manner prescribed under that Act.

64 Section 11 is amended by adding the following subsection:

- (7) Despite any other enactment, the following have no effect on the priority under this section of a lien and charge on eligible property:
 - (a) a transfer of a portion of an owner's interest in the eligible property to the spouse of the owner after an amending agreement is made under section 7.1;
 - (b) the registration of an amending agreement under section 7.2 (1);
 - (c) the registration of a financing change statement under section 7.2 (2).

Logging Tax Act

65 *Section 14 (1) of the Logging Tax Act, R.S.B.C. 1996, c. 277, is amended by adding the following paragraph:*

(a.1) in the course of administering or enforcing Part 11.1 of the *Forest Act*, .

66 *Section 14.1 (2) is amended by striking out “or the Income Tax Act (Canada).” and substituting “, the Income Tax Act (Canada) or Part 11.1 of the Forest Act.”*

67 *Section 20 is amended*

(a) in subsection (2) (a) by adding “or” at the end of subparagraph (ii) and by repealing subparagraph (iv), and

(b) by repealing subsections (3) and (4) and substituting the following:

(3) A taxpayer may file with the commissioner a waiver for the taxation year, in the form and containing the information required by the commissioner, within 5 years of the date of the original assessment.

(4) A waiver filed under subsection (3) continues in effect until 6 months after the taxpayer files with the commissioner a notice revoking the waiver in the form and containing the information required by the commissioner.

(5) If a taxpayer is issued a notice of assessment, reassessment or additional assessment under the *Income Tax Act* (Canada) that shows a change in an amount relevant to the calculation of tax payable,

(a) the taxpayer must notify the commissioner within 90 days of receiving the notice, and

(b) despite subsection (2) (b), the commissioner may assess or reassess a taxpayer for taxes for a taxation year before the end of the later of

(i) the last day on which an assessment or reassessment may be made under subsection (2) (b), and

(ii) one year after the day that is the earlier of

(A) the day that the commissioner is notified by the taxpayer under paragraph (a) of this subsection, and

(B) the day that the commissioner is notified of the assessment, reassessment or additional assessment under the *Income Tax Act* (Canada).

Personal Property Security Act

68 *The Schedule to the Personal Property Security Act, R.S.B.C. 1996, c. 359, is amended by adding the following item as indicated:*

Item	Column 1 Matter	Column 2 Fee
6.1	For the registration of a financing change statement under section 7.2 of the <i>Land Tax Deferment Act</i>	no charge

Social Service Tax Act

69 *Section 4.82 of the Social Service Tax Act, R.S.B.C. 1996, c. 431, is amended*

- (a) *in subsection (1) by adding “section 61.1 and” after “For the purposes of”,*
- (b) *in subsection (1) by striking out “legal services or a telecommunication service” and substituting “legal services, a telecommunication service or a parking right”, and*
- (c) *in subsection (4) by adding “section 61.1,” after “For the purposes of”.*

70 *Section 61 is amended*

- (a) *by repealing subsections (2) to (4), and*
- (b) *in subsection (5) by striking out “or (2)”.*

71 *The following section is added:*

Transition – parking tax

- 61.1** (1) Tax is payable by a purchaser under section 61 in respect of a parking right if, before July 1, 2010,
- (a) the purchase price of the parking right becomes due or is paid without having become due, or
 - (b) only a portion of the purchase price of the parking right becomes due or is paid without having become due.
- (2) Tax is not payable by a purchaser under section 61 in respect of a parking right if the purchase price of the parking right
- (a) becomes due on or after July 1, 2010, and
 - (b) is not paid before July 1, 2010.

Section 72

- (3) If tax is payable under section 61 by reason of subsection (1) (b) of this section, for the purpose of calculating the tax payable under section 61, the purchase price of the parking right is deemed to be the amount equal to the purchase price of the parking right less that portion of the purchase price of the parking right that is not paid before July 1, 2010 and becomes due on or after July 1, 2010.

72 *The following section is added:***Limit on refunds – parking tax**

- 80.1** Despite any other provision in this Act, a refund of tax paid under section 61 or of an amount paid as tax under section 61 must not be made on a claim for a refund that is made on or after July 1, 2010.

South Coast British Columbia Transportation Authority Act

- 73** *Section 1 (1) of the South Coast British Columbia Transportation Authority Act, S.B.C. 1998, c. 30, is amended in the definition of “motor vehicle” by adding “, except in Part 7.1 [Parking Rights Tax],” before “means”.*

- 74** *Section 6 (2) (f) is amended by striking out “and under section 61 (1) and (2) of the Social Service Tax Act”.*

75 *Section 30.1 is amended**(a) by adding the following subsection:*

- (0.1) In this section, “**parking right**” and “**purchase price**” have the same meaning as in Part 7.1. ,

*(b) in subsection (1) (a) by striking out “section 61 (1) of the Social Service Tax Act” and substituting “Part 7.1”, and**(c) by repealing subsection (2).*

- 76** *Section 45 is amended by adding “or the regulations” after “Act”.*

77 *The following Part is added:***PART 7.1 – PARKING RIGHTS TAX****Division 1 – Definitions and Interpretation****Definitions and interpretation**

- 169.01** (1) In this Part:

“**administrator**”, except in the definition of “vendor” and in section 169.47 (1), means the employee of the authority appointed by the board to administer this Part;

“**assessment**” includes reassessment;

“**board member**” means a member of a board of directors of a corporation and includes a person who is deemed to be a board member under section 169.34;

“**collector**” means a person who has collected taxes under this Part;

“**fair market value**”, in relation to a parking right, means the price at which the right would 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;

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

“**park**”, in respect of a motor vehicle, does not include storage if the motor vehicle is stored for a period of more than 28 consecutive days;

“**parking period**”, in respect of a parking right, means the period for which the parking right is purchased;

“**parking right**” means the right to park a motor vehicle at a parking site for any period of time;

“**parking site**” means any location in the transportation service region at which a motor vehicle may, for a price or other consideration, be parked for any period of time;

“**purchase price**”, in relation to a parking right, means a price in money and all other consideration accepted by a seller of a parking right as price or on account of the price of the parking right;

“**purchaser**” means a person who agrees to pay or is otherwise obliged to pay consideration for a parking right

- (a) provided to the person for the person’s own benefit or use,
- (b) provided to another person for that person’s benefit or use at the first person’s expense, or
- (c) provided to the person on behalf of or as agent for a principal, if the parking right is for the benefit or use of the principal or another person at the expense of that principal;

“**retail sale**” means a sale to a purchaser for purposes of benefit or use and not for resale;

“**sale**” includes a contract by which, at a price or for other consideration, a person provides a parking right to another person;

“**tax**” includes all penalties and interest that are or may be added to tax under this Part;

“**vendor**” means a person, including an assignee, liquidator, administrator, receiver, receiver manager, trustee or similar person, who in the ordinary course of the person’s business sells a parking right to a purchaser at a retail sale.

- (2) For the purposes of this Part, a person who, for the benefit or use of another person, agrees to pay or is otherwise obliged to pay consideration for a parking right
- (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 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 parking right.

Division 2 – Tax in Relation to Parking Rights

Parking tax

- 169.02** (1) A purchaser of a parking right in relation to a parking site that is within the transportation service region must pay to the authority a tax at the rate set and in effect under section 30.1.
- (2) The tax under subsection (1) must be paid at the time the purchase price for the parking right is paid or by the date on which the purchase price for the parking right is payable, whichever is earlier.
- (3) If a rate is set or changed under section 30.1, the purchaser must, on each date within the parking period on which a new rate takes effect under section 30.1, pay to the authority, in addition to the amount paid or payable under subsection (1) of this section, a tax equal to the difference between
- (a) the amount of tax, paid or payable by the purchaser under this section or section 61 of the *Social Service Tax Act* in relation to the parking right, that is attributable to the remainder of the parking period, and
 - (b) the amount calculated by multiplying the new rate by that portion of the purchase price of the parking right that is attributable to the remainder of the parking period.
- (4) If the amount calculated under subsection (3) (b) is less than the amount of tax referred to in subsection (3) (a) that has been paid, the purchaser may apply to the administrator for a refund of the difference between the 2 amounts, and the administrator, on receipt of evidence satisfactory to the administrator, must pay a refund to the purchaser.

Parking tax if change in use

- 169.03** (1) Subsection (2) applies to a purchaser of a parking right if
- (a) the purchaser purchased a parking right for which the person is exempt from tax under this Part or section 61 of the *Social Service Tax Act*, and
 - (b) the purchaser subsequently, for any period, uses a portion of that parking right or allows a portion of that parking right to be used for a purpose other than that which allowed the person to be exempt from tax under this Part or section 61 of the *Social Service Tax Act*.

- (2) A purchaser to whom this subsection applies must pay to the authority, at the prescribed time and in the prescribed manner, a tax at the rate set and in effect under section 30.1.
- (3) Subsection (4) applies to a person who
 - (a) received a refund of tax under this Part in relation to a parking right, and
 - (b) subsequently, for any period, uses a portion of that parking right or allows a portion of that parking right to be used for a purpose other than that which entitled the person to receive a refund of tax under this Part.
- (4) A person to whom this subsection applies must pay to the authority, at the prescribed time and in the prescribed manner, a tax at the rate set and in effect under section 30.1.
- (5) For the purpose of calculating the tax payable under this section, the purchase price of the parking right is deemed to be that portion of the purchase price of the parking right that is attributable to the period referred to in subsection (1) (b) or (3) (b) in which the parking right is used as described in that subsection.

Calculation of tax if price reduced

169.04 For the purpose of taxation under this Part, if

- (a) a vendor offers to a purchaser a reduction in a purchase price, and
- (b) the conditions of the reduction, if any, have been met by the purchaser,

the vendor must calculate tax by first deducting the full amount of the reduction from the purchase price and then applying the tax rate to the reduced purchase price.

Valuation by administrator

169.05 For the purpose of taxation under this Part,

- (a) the administrator may determine the fair market value of a parking right
 - (i) that passes at a sale, or
 - (ii) for which there has been a change of use as described in section 169.03, and
- (b) if the administrator makes a determination under paragraph (a), the purchase price of the parking right is as determined by the administrator under that paragraph.

How tax is to be calculated

169.06 The tax imposed by this Part must be

- (a) calculated separately on every purchase of a parking right, and
- (b) computed to the nearest cent, with 1/2 cent counted as 1 cent.

Division 3 – Tax Exemptions

General exemptions

169.07 Subject to the terms and conditions the Lieutenant Governor in Council specifies in the regulations, a person is exempt from tax imposed under Division 2 in respect of a parking right purchased

- (a) for residential parking, as that term is defined in the regulations,
- (b) for parking at a prescribed parking site, or
- (c) by a person who is a member of a prescribed class of persons.

Exemption for purchases for resale

169.08 A purchaser who purchases a parking right is exempt from tax imposed by section 169.02 in respect of any portion of the parking right that was purchased for the purpose only of selling it to other persons.

Division 4 – Refunds

Refund where no obligation to pay or collect

- 169.09** (1) If the administrator is satisfied that an amount has been paid as tax under this Part or under section 61 of the *Social Service Tax Act* in circumstances where there was no legal obligation to pay the amount as tax, the administrator must refund that amount to the person entitled to it.
- (2) If the administrator is satisfied that a person has remitted to the administrator an amount as collected taxes that the person neither collected nor was required to collect under this Part, the administrator must refund the amount to the person.
- (3) If the administrator is satisfied that a person has remitted to the commissioner under the *Social Service Tax Act* an amount as collected taxes, in relation to a purchase of a parking right, that the person neither collected nor was required to collect under that Act, the administrator must refund the amount to the person.

Refunds authorized or required under the regulations

169.1 The administrator,

- (a) if authorized by the regulations, may pay a refund of all or part of tax paid under this Part or under section 61 of the *Social Service Tax Act* by an applicant for a refund, and
- (b) if required by the regulations, must pay a refund of all or part of tax paid under this Part or under section 61 of the *Social Service Tax Act* by an applicant for a refund.

Refunds when joint and several liability

- 169.11** (1) Despite section 169.09 (2), if the administrator is satisfied that the total of the amount paid by one or more board members of a corporation who are jointly and severally liable with the corporation under section 169.33 (1) and the amount, if any, paid by the corporation exceeds the amount owed by the corporation under this Part for the period that the board members who made the payments were jointly and severally liable with the corporation, the administrator must pay a refund 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 169.33 (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 all or part of the amount for which board members and the corporation were jointly and severally liable under section 169.33 (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 169.33 (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.

Refunds from vendor

- 169.12** If a vendor pays a refund or allows a credit to a purchaser of all or part of the purchase price for a parking right, the vendor must refund to the purchaser the amount of tax paid under this Part by the purchaser that is attributable to the amount of the purchase price refunded or credited.

Deduction for bad debts

- 169.13** (1) Subject to subsection (3), the administrator must, in accordance with the regulations, refund to a collector who sells a parking right a portion, determined in the prescribed manner, of the amount remitted by the collector to the administrator in respect of taxes payable under this Part on that sale.
- (2) The administrator must make a refund under subsection (1) if
- (a) the collector, in accordance with this Part, remits the tax required to be levied and collected under this Part for the sale referred to in subsection (1),
 - (b) the purchaser subsequently fails to pay to the collector the full amount of the consideration and tax payable on that sale, and

- (c) the collector writes off as unrealizable or uncollectable the amount owing by the purchaser.
- (3) A collector may, in the prescribed manner, deduct the amount of the refund payable to the collector under this section from the amount of taxes that the collector is required to remit under this Part.
- (4) If a collector who has obtained a refund under subsection (1) or made a deduction under subsection (3) recovers all or part of the amount referred to in subsection (2) (c) with respect to which the refund was paid or the deduction was made, the collector must add an amount, determined in the prescribed manner, to the tax to be remitted by the collector under this Part with respect to the reporting period in which the recovery was made.

Claim for refund

- 169.14** (1) To claim a refund under this Part, a person must
- (a) submit to the administrator a written application in a form satisfactory to the administrator and signed by the person who paid the amount claimed, and
 - (b) provide sufficient evidence to satisfy the administrator that the person who paid the amount is entitled to the refund.
- (2) For the purposes of subsection (1) (a), if the person who paid the amount claimed is a corporation, the application must be signed by a member of the board of directors or authorized employee of the corporation.

Limits on refunds

- 169.15** (1) A refund must not be paid under this Part if
- (a) the amount of the refund is less than \$10, or
 - (b) the claim for the refund is made more than 4 years after the date on which the amount claimed was paid.
- (2) Despite the *Limitation Act*, an action for a refund under this Part must not be brought more than 4 years after the date on which the amount claimed was paid.

Division 5 – Collection of Taxes**Vendor must have registration certificate**

- 169.16** (1) A vendor must not sell a parking right at a retail sale unless
- (a) the vendor has been issued a registration certificate under section 169.17, and
 - (b) the registration certificate is in force at the time of sale.
- (2) A registration certificate
- (a) is not transferable, and
 - (b) must be kept at the vendor's principal place of business in the transportation service region.

Issue of registration certificate

- 169.17** (1) On application by a vendor in the form required by the administrator, the administrator may issue a registration certificate to the vendor.
- (2) The administrator may require an applicant, as a condition of issuing a registration certificate, to deposit a bond by way of cash or other security, if the administrator considers that, due to a previous failure of a vendor or class of vendor to comply with this Part, there is a significant risk that the applicant for a registration certificate may not collect or remit taxes under this Part.
- (3) If the administrator requires that a bond be deposited under subsection (2), section 169.42 applies.

Refusal to issue, or suspension or cancellation of, registration certificates

- 169.18** (1) The administrator may refuse to issue a registration certificate to a vendor who
- (a) does not hold a federal, provincial, regional district, municipal or treaty first nation registration, licence or permit otherwise required by law in relation to the provision of a parking right,
 - (b) has failed to deposit a bond required under section 169.17 (2), or
 - (c) has refused or neglected to comply with a provision of, or has committed an offence against, this Part or the regulations.
- (2) The administrator may suspend or cancel a registration certificate issued to a vendor under section 169.17 if
- (a) any of the circumstances described in subsection (1) (a) or (c) exist in respect of the vendor, or
 - (b) the vendor has failed to deposit a bond required under section 169.42.

Tax not to be absorbed by seller

- 169.19** A person who sells a parking right must not directly or indirectly advertise, hold out or state to the public or to any purchaser that the tax or any part of the tax imposed under this Part
- (a) will be assumed or absorbed by the person,
 - (b) will not be considered as an element in the price to the purchaser, or
 - (c) if added, will be refunded.

Seller deemed to be agent of authority

- 169.2** A person who sells parking rights at a retail sale is deemed to be an agent for the authority and as agent must levy and collect tax as required by this Part.

Collection of tax

- 169.21** (1) A person who sells parking rights at a retail sale must collect the tax imposed under section 169.02 (1) at the time the purchase price for the parking right is paid or by the date on which the purchase price for the parking right is payable, whichever is earlier.
- (2) A person who sells parking rights at a retail sale must collect the tax imposed under section 169.02 (3) on the date within the parking period on which the new rate takes effect.
- (3) Subsections (1) and (2) apply whether the purchase price is payable in cash, on terms, by installments or otherwise.

Tax collected deemed to be held in trust

- 169.22** If a person collects an amount of tax under this Part or collects an amount as if it were tax under this Part,
- (a) the person is deemed to hold the amount in trust for the authority and for payment of the amount to the authority in the manner and at the time required under this Part, 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.

Deemed payment of tax

- 169.23** Any money received by a collector in respect of a sale of parking rights in relation to which tax is payable under this Part, up to the full amount of the tax owing, is deemed to be payment of the tax owing by the purchaser under this Part.

Remittance of amounts collected

- 169.24** (1) A person must remit the tax collected under this Part to the administrator at the prescribed times and in the prescribed manner.
- (2) If a person collects an amount as if it were a tax imposed under this Part, the person must remit to the administrator the amount collected at the same time and in the same manner as a tax collected under this Part.

Allowance for collection and remittance of tax

- 169.25** The authority may make an allowance to vendors for their services in collecting and remitting the tax to the authority.

Certificate required for designated sales

- 169.26** (1) In this section, “**designated sale**” means
- (a) a sale of parking rights by a vendor out of the ordinary course of the vendor’s business,
 - (b) a sale of all or substantially all of the parking rights of a vendor,
 - (c) a sale of all or substantially all of the parking sites owned by the vendor, or
 - (d) a sale of an interest in a vendor’s business of selling parking rights.
- (2) A vendor must not dispose of the vendor’s parking rights through a designated sale without first obtaining a certificate in duplicate from the administrator that all amounts owing under this Part by that vendor have been paid to the authority.
- (3) A person purchasing the vendor’s parking rights through a designated sale must obtain from the vendor selling the parking rights the duplicate copy of the certificate obtained under subsection (2).
- (4) If the person purchasing the parking rights fails to obtain the duplicate copy as required by subsection (3), that person is responsible for payment to the authority of all amounts owing under this Part by the vendor selling the parking rights.

Purchaser liable for tax

- 169.27** The purchaser is liable for, and remains liable for, the tax imposed under this Part until that tax has been collected.

Division 6 – Tax Collection Administration**Inspection and audit powers**

- 169.28** (1) Except as limited by subsection (3), to determine whether this Part and the regulations are being or have been complied with, the administrator may enter at any reasonable time the business premises occupied by a person, the premises where the records of a person are kept or a parking site, in order to do any of the following:
- (a) inspect, audit and examine records;
 - (b) determine the quantities of parking rights sold or offered for sale.
- (2) A person occupying premises or a parking site referred to in subsection (1) must
- (a) produce all records as may be required by the administrator, and
 - (b) answer all questions of the administrator regarding the matters referred to in that subsection.
- (3) The power to enter a place under subsection (1) 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 (4).

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- (4) 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 (1), 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 (1) (a) and (b).
- (5) When required by the administrator, a person must provide to the administrator all records that the administrator considers necessary to determine whether this Part and the regulations are being or have been complied with.
- (6) A person must not
 - (a) hinder, molest or interfere with 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.

Estimate of unremitted tax

- 169.29** (1) If a person who is required to file a return for tax under this Part fails to file a return or remit tax as required under this Part, or if the records of a person do not substantiate a person's return for tax, the administrator may make an estimate of the amount of tax that was collected or is required to be remitted by the person and for which the person has not accounted.
- (2) The amount estimated under subsection (1) is deemed to be the amount of tax collected or required to be remitted by the person in respect of whom the estimate is made.
 - (3) In making an estimate under this section, the administrator must not consider or include a period longer than 4 years before the date of the first notice of assessment.
 - (4) Despite subsection (3), the administrator may enter into a written agreement with a person in which the person waives subsection (3) and allows the administrator, in making an estimate under this section, to consider and include any period specified in the agreement.

Assessment of tax

- 169.3** (1) If it appears from an inspection, audit or examination or from other information available to the administrator that taxes have not been paid or have not been remitted as required under this Part, the administrator must
- (a) calculate, in the manner and by the procedure the administrator considers adequate and expedient, the tax not paid or not remitted, and
 - (b) assess the person liable to pay the tax or remit the tax.

- (2) If it appears from an inspection, audit or examination or from other information available to the administrator that a person has received a refund of an amount under this Part that was in excess of the refund amount that was due to the person, the administrator must make an assessment against the person in an amount equal to the excess amount refunded or deducted and interest on that amount.
- (3) In making an assessment under this section, the administrator must not consider or include a period longer than 4 years before the date of the first notice of assessment.
- (4) Despite subsection (3), in making an assessment under this section, the administrator may consider and include any period if the assessment relates to a contravention of this Part or the regulations involving wilful default or fraud.
- (5) Despite subsection (3), the administrator may enter into a written agreement with a person in which the person waives subsection (3) and allows the administrator, in making an assessment under this section, to consider and include any period specified in the agreement.

Failure to collect taxes

- 169.31** (1) If it appears from an inspection, audit or examination or from other information available to the administrator that an amount of tax imposed under this Part should have been but was not collected, the administrator must impose on the person who should have collected the tax a penalty equal to the amount of the tax that should have been collected and interest on that amount.
- (2) A person 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 the amount paid, and any amount recovered in the action may be retained by the plaintiff as compensation for the amount paid.
 - (3) In imposing a penalty under this section, the administrator must not consider or include a period longer than 4 years before the date of the first notice of assessment.
 - (4) Despite subsection (3), in imposing a penalty under this section, the administrator may consider and include any period if the penalty is imposed as a result of a contravention of this Part or the regulations involving wilful default or fraud.
 - (5) Despite subsection (3), the administrator may enter into a written agreement with a person in which the person waives subsection (3) and allows the administrator, in imposing a penalty under this section, to consider and include any period specified in the agreement.
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Penalty for failure to remit or pay taxes

169.32 In addition to any other penalty, the administrator may do any of the following:

- (a) if the administrator is satisfied that a person who collected tax in respect of a parking right wilfully failed to remit the tax on the parking right to the authority as required under this Part, 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 administrator is satisfied that a person evaded the payment of tax to the authority 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 administrator is satisfied that a person failed to remit or pay any tax to the authority as required under this Part, impose on the person a penalty equal to 10% of the amount not remitted or paid.

Board member's liability

169.33 (1) Subject to this section, if a corporation has failed to collect or remit taxes as required under this Part, a board member of that corporation is jointly and severally liable with the corporation to pay an amount equal to the taxes that the corporation failed to collect or remit during the term of the board member, including penalties and interest on that amount.

(2) A board member is not liable under subsection (1) unless one of the following has occurred:

- (a) the authority has obtained a judgment of a court for the recovery of an amount of taxes that the corporation failed to collect or remit;
- (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 receiving order has been made against the corporation under the *Bankruptcy and Insolvency Act* (Canada);
- (e) an order has been made staying proceedings in respect of the corporation 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 that is similar in 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 collect or remit taxes as required under this Part.

Deemed board member

- 169.34** (1) If the administrator 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 administrator may request the person and the corporation to provide to the administrator the records and information required by the administrator to confirm or rebut that belief.
- (2) Subject to subsection (3), the administrator may decide 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 or the corporation that has been requested to provide records or information to the administrator under subsection (1) fails or refuses to comply with the request within a period of time considered by the administrator to be reasonable in the circumstances, or
 - (b) the records or information provided to the administrator under this section confirm the administrator's belief that the person performed some or all of the functions of a member of the board of directors of the corporation.
- (3) The administrator must not decide under subsection (2) (b) that a person performed some or all of the functions of a member of the board of directors of a corporation if the decision 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, an accountant or another 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) If the administrator decides 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 a board member of the corporation for the purposes of this Part for a term that equals the period the person performed those functions.

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- (5) Immediately after the administrator makes a decision under subsection (2), the administrator must give written notice to the person to whom the decision relates and the corporation.

Notice of assessment

- 169.35** (1) On making an estimate or assessment under section 169.29, 169.3 or 169.36 or imposing a penalty under section 169.31 or 169.32, the administrator must issue a notice of assessment to the person liable to pay the amount estimated, assessed or imposed.
- (2) Evidence that a notice of assessment under subsection (1) has been issued is proof, in the absence of evidence to the contrary, that the amount estimated, assessed or imposed under this Part is due and owing, and the onus of proving otherwise is on the person liable to pay the amount estimated, assessed or imposed.
- (3) Subject to being amended, changed or varied on appeal or by reassessment, an estimate, assessment or penalty made or imposed under this Part is valid and binding despite any error, defect or omission in the estimate, assessment or penalty or in procedure.

Assessment against board member

- 169.36** (1) If the administrator decides under section 169.33 that a board member is jointly and severally liable with a corporation for an amount, the administrator may assess the board member for
- (a) the amount assessed under section 169.3 or imposed under 169.31 or both against the corporation for the corporation's failure to collect or remit taxes as required during the term of the board member, including penalties and interest on that amount, and
 - (b) the amount estimated under section 169.29 as the tax the corporation collected during the term of the board member, including penalties and interest on that amount.
- (2) The administrator must not make an assessment under subsection (1) in respect of the liability of a board member under section 169.33 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.

Irregularities

- 169.37** An estimate or assessment made, or a penalty imposed, by the administrator under this Part 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.

Interest on amount payable

- 169.38** (1) In addition to any amount payable under this Part, interest, calculated at the rate and in the manner prescribed, is payable on the amount due from the time it was due or a later prescribed time.
- (2) The administrator may assess at any time interest payable under subsection (1).

Division 7 – Appeals**Appeal to board**

- 169.39** (1) An appeal to the chief executive officer lies from a decision of the administrator about any of the following:
- (a) a refund of tax under this Part;
 - (b) a refusal to issue a registration certificate;
 - (c) a suspension or cancellation of a registration certificate;
 - (d) an estimate, assessment or imposition of a penalty under section 169.29, 169.3, 169.31, 169.32, 169.36 or 169.38;
 - (e) a decision of the administrator under section 169.34 (2) (b) or 169.46 (8) (b).
- (2) Written notice of the appeal must be served on the chief executive officer within 90 days after the date on the administrator's notice of the decision.
- (3) The appellant must set out in the notice of appeal a statement of all material facts and the reasons in support of the appeal.
- (4) On receiving the notice of appeal, the chief executive officer must
- (a) consider the matter,
 - (b) subject to subsection (5), affirm, amend or change the assessment, decision, estimate, amount imposed or nature of the assessment, and
 - (c) promptly notify the appellant in writing of the result of the appeal.
- (5) If an appeal relates to a matter referred to in subsection (1) (b), the chief executive officer may
- (a) affirm the decision of the administrator, or
 - (b) direct the administrator to issue a registration certificate to the appellant, subject to section 169.17 (2).

Appeal to court

- 169.4** (1) A decision of the chief executive officer under section 169.39 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.

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- (3) A petition must be filed in the court registry within 90 days after the date on the chief executive officer's notification of decision.
- (4) Within 14 days after the filing of the petition under subsection (3), the petition must be served on the authority.
- (5) An appeal under this section is a new hearing that is not limited to the evidence and issues that were before the chief executive officer.
- (6) 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 administrator for reconsideration.
- (7) An appeal lies from a decision of the court to the Court of Appeal with leave of a justice of the Court of Appeal.

Pending appeal not to affect tax collection

- 169.41** (1) Neither the giving of a notice of appeal by a person nor a delay in the hearing of an appeal
- (a) affects the date of payment, the interest or penalties or any liability for payment under this Part in respect of the amount estimated, assessed or imposed that is the subject matter of the appeal, or
 - (b) delays the collection of the amount estimated, assessed or imposed.
- (2) If a decision of the administrator or the chief executive officer is set aside or the amount of an estimate, assessment or penalty is reduced on appeal, the administrator must refund
- (a) the amount or excess amount paid, and
 - (b) any additional interest or penalty imposed and paid.

Division 8 – Recovery of Amounts Owing**Administrator may require bond**

- 169.42** (1) If a vendor has failed to collect or remit tax in accordance with this Part, the administrator may require the vendor to deposit with the administrator a bond, by way of cash or other security, satisfactory to the administrator.
- (2) The amount of a bond under subsection (1) is to be determined by the administrator, but the bond must not be greater than 6 times the estimated amount of tax that would normally be collected by the vendor each month under this Part.

- (3) If a vendor who has deposited a bond under subsection (1) fails to collect or remit tax in accordance with this Part, the administrator, after giving written notice to the vendor, may apply all or part of the bond to the amount that should have been collected or remitted by the vendor, and to the interest due on that amount under this Part.

Court action to recover amount owing

169.43 An amount owing to the authority under this Part may be recovered by action in a court.

Alternate remedies

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

Attachment of funds

- 169.45** (1) In this section, “**taxpayer**” means any person who is liable to pay or remit to the authority an amount under this Part.
- (2) If the administrator knows or suspects that a person is or is about to become indebted or liable to make a payment to a taxpayer, the administrator may demand that that person pay to the authority on account of the taxpayer’s liability under this Part all or part of the money otherwise payable to the taxpayer.
 - (3) Without limiting subsection (2), if the administrator 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 administrator may demand that that person pay to the authority on account of the taxpayer’s liability under this Part the money that would otherwise be advanced or paid.
 - (4) A demand under this section must be served by
 - (a) personal service,
 - (b) registered mail, or
 - (c) electronic mail or fax.
 - (5) If under this section the administrator demands that a person pay to the authority, on account of a taxpayer’s liability under this Part, 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 that person to that taxpayer until the liability under this Part is satisfied, and
 - (b) operates to require payments to the authority out of each payment of the amount stipulated by the administrator in the demand.

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- (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
- (a) the demand is satisfied, or
 - (b) 90 days after the demand is served,
- whichever is earlier.
- (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 administrator under this section becomes payable
- (a) as soon as the person is served with the demand, if the 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 authority 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 authority an amount equal to the lesser of
- (a) the aggregate of the money advanced or paid, and
 - (b) the amount that the person was required to pay under subsection (3).
- (12) The receipt of the administrator for money paid under this section is a sufficient discharge of the original liability to the extent of the payment.
- (13) Money paid by any person to the authority in compliance with a demand under this section is deemed to have been paid by that person to the taxpayer.

Lien

169.46 (1) In this section:

“**associated corporation**” means a corporation that

- (a) is associated with another corporation within the meaning of section 256 of the *Income Tax Act* (Canada), or

(b) is determined under subsection (8) to be associated with another corporation for the purposes of this section;

“financing statement” has the same meaning as in 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 amount referred to in subsection (2) is required to be paid or collected and remitted;

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

- (2) If a person is required to pay or collect and remit an amount under this Part and does not pay or collect and remit that amount, the administrator 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 remaining unpaid, uncollected or unremitted and any related penalty or interest on that amount.
- (4) On registration of a lien against the personal property of a person under subsection (2) (b), a lien is created on the personal property in which the person has a legal or equitable interest for the amount remaining unpaid, uncollected or unremitted, and any related interest and penalty on that amount.
- (5) If a lien results from an estimate under section 169.29 and the estimate is for an amount that is different from the actual amount of the lien as established under subsections (3) and (4) of this section, the administrator may correct the amount by registering a new lien in the revised amount and discharging the original lien, but the new registration is deemed to be registered at the same time as the registration it revises.
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Section 77

- (6) Despite section 169.52, on the written request of a person accompanied by the written consent of a named person, the administrator must disclose in writing whether a lien is registered against the personal or real property of the named person and, if a lien is registered, the amount of the lien and the date of its registration.
- (7) If the administrator believes that one corporation is associated with another corporation within the meaning of section 256 of the *Income Tax Act* (Canada), the administrator may request one or both of the corporations to provide to the administrator the records and information required by the administrator to confirm or rebut that belief.
- (8) The administrator may determine that the 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 administrator under subsection (7) fails or refuses to comply with that request within a period of time considered by the administrator to be reasonable in the circumstances, or
 - (b) the records or information provided to the administrator under this section confirm the administrator's belief that the corporations are associated.
- (9) 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 administrator
 - (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.
- (10) The administrator may seize personal property against which a lien is registered under subsection (9) 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 (9) (a) was sent to the corporation, and
 - (b) if a notice of appeal is served on the chief executive officer in respect of the determination within the time provided by section 169.39 (2), the date on which the chief executive officer upholds the determination under that appeal.
- (11) If, at any time, the administrator 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 (9) (b) of this section or if the chief executive officer or a court of competent jurisdiction upholds the corporation's appeal against the administrator's determination on the basis that the corporations were not associated at the time that the lien was registered, the administrator must,
 - (a) if the administrator has not realized on any of the assets against which the lien was registered, promptly release the lien, and

- (b) if the administrator 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 administrator considers it appropriate to do so, into the Supreme Court under Rule 10-3 of the Supreme Court Civil Rules.
- (12) The release of the lien under subsection (11) (a) or the release of the lien and payment of the applicable net sale proceeds under subsection (11) (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 (8), 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

- 169.47** (1) This section applies to a person who, as assignee, liquidator, administrator, receiver, receiver manager, trustee, secured party as defined in the *Personal Property Security Act* 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 or is required to collect tax under this Part.
- (2) Before distributing the property referred to in subsection (1), or the proceeds from the realization of it, a person to whom this section applies must obtain from the administrator a certificate that the amount that constituted a lien registered under section 169.46 (2) has been paid or that security acceptable to the administrator has been given.
- (3) If a person to whom this section applies distributes the property referred to in subsection (1), or the proceeds from the realization of it, without having obtained the certificate required by subsection (2), the person is personally liable to the authority for an amount equal to the amount required to be paid to obtain the certificate.

Notice of enforcement proceedings

- 169.48** (1) Before taking proceedings for the recovery of an amount owing to the authority under this Part, the administrator must give to the person who owes the amount notice of the administrator'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 under this Part.

Limitation period

- 169.49** (1) In this section, “**proceeding**” means
- (a) an action for the recovery of an amount owing to the authority,
 - (b) the making of a demand, and
 - (c) the registration or enforcement of a lien under this Part.
- (2) A proceeding may be commenced at any time within 7 years after the date of an assessment of the amount claimed in the proceeding.
- (3) Despite subsection (2), a proceeding that relates to a contravention of this Part or the regulations and that involves wilful default or fraud may be commenced at any time.

Application for injunction

- 169.5** The administrator may apply to the Supreme Court for an injunction ordering a person who sells or offers to sell a parking right to cease selling or offering to sell a parking right until the person complies with this Part and the regulations and the person’s obligations under this Part are fulfilled.

Division 9 – General**Appointment of administrator**

- 169.51** The board may appoint an employee of the authority as administrator for the purpose of administering this Part.

Confidentiality

- 169.52** (1) A person who has custody of or control over information or records under this Part must not disclose the information or records to any other person except as follows:
- (a) in the course of administering or enforcing this Part;
 - (b) in court proceedings relating to this Part;
 - (c) as provided in, or ordered under, section 39 (3), 40 (1), 99 (5) or 100 (1) of the *Family Relations Act* or section 8 (3) or 9 (2) of the *Family Maintenance Enforcement Act*;
 - (d) under an agreement that
 - (i) is between the authority and the government,
 - (ii) relates to the administration or enforcement of this Part or Division 8 of Part 2 of the *Social Service Tax Act*, and
 - (iii) provides for the disclosure of information and records to and the exchange of similar information and records with the government;

- (e) under an agreement that
 - (i) is between the authority and the government of Canada or the government of another province of Canada,
 - (ii) relates to the administration or enforcement of this Part or another taxation enactment, and
 - (iii) provides for the disclosure of information and records to and the exchange of similar information and records with that government;
 - (f) for the purpose of compiling statistical information by the government or the government of Canada.
- (2) Despite subsection (1), a person to whom information or records are disclosed under an agreement referred to in subsection (1) (d) may disclose the information or records to any other person as follows:
- (a) in the course of administering or enforcing another taxation Act;
 - (b) in court proceedings relating to another taxation Act.
- (3) Despite section 4 of the *Social Service Tax Act*, a person who has custody of or control over information or records under that Act may disclose the information or records to any other person under an agreement referred to in subsection (1) (d).

Demand for information

- 169.53** (1) For any purpose related to the administration or enforcement of this Part or the regulations, the administrator may, by demand notice, require from any person
- (a) a return,
 - (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 served 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 on whom a demand notice is served under this section must comply with the notice within the time specified in the notice.
- (4) An affidavit by the administrator in which are stated the facts necessary to establish
- (a) compliance by the administrator 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.

Service of notices

- 169.54** (1) If service of a notice or other document by the administrator is required or authorized under this Part, 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 administrator, 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 administrator.
- (2) If service of a notice or other document on the authority is required or authorized under this Part, the notice or document is conclusively deemed to have been served if delivered to the authority's head office.
- (3) If service under subsection (1) is by registered mail, electronic mail or fax, the notice or document is conclusively deemed to have been 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 it was left with an adult employed at the place of business of the addressee.
- (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 it 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 member of the board of directors, 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 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 the person.

- (8) In a prosecution or any proceeding for any matter arising under this Part, the facts necessary to establish compliance on the part of the administrator with this section may be sufficiently proved in any court by the production of an affidavit of the administrator setting out the facts.

Division 10 – Offences and Penalties

Offences and penalties

- 169.55** (1) A person who contravenes section 169.52 [*confidentiality*] commits an offence and is liable to a fine of not more than \$2 000.
- (2) 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 an application, return, or other document required to be submitted or made under this Part;
 - (b) destroys, alters, mutilates, hides or otherwise disposes of a record of a vendor to evade remittance of tax the person has collected;
 - (c) makes, or participates in, assents to or acquiesces in the making of, a false or deceptive entry in a record of a purchaser or vendor related to an amount to be paid to the authority under this Part;
 - (d) omits, or participates in, assents to or acquiesces in the omission of, a material particular in a record of a purchaser or vendor related to an amount to be paid to the authority under this Part;
 - (e) refuses to produce a record, or hinders, molests or interferes with an inspection, audit or examination or prevents or attempts to prevent a person from carrying out an inspection, audit or examination under this Part;
 - (f) wilfully, in any manner, fails to comply with this Part or the regulations;
 - (g) wilfully, in any manner, evades or attempts to evade compliance with this Part or the regulations or remittance or payment of an amount payable to the authority under this Part;
 - (h) conspires with any person to do anything described in paragraphs (a) to (g).
- (3) A person who commits an offence under subsection (2) is liable
- (a) to a fine of not more than \$10 000 or to imprisonment for not more than 2 years or to both fine and imprisonment, and
 - (b) in addition, to a fine equal to the amount of any tax not collected, remitted or paid.
- (4) In a prosecution under subsection (2), a certificate signed by the administrator stating the amount of tax referred to in subsection (3) (b) is evidence of the amount of tax referred to in subsection (3) (b).

Onus of proof

169.56 In a prosecution for failure to collect, remit or pay an amount under this Part, the onus is on the accused to prove that the amount was collected by the accused or was paid or remitted, as the case may be, to the authority.

Evidence – notice of assessment

169.57 In a prosecution, a notice of assessment issued under this Part is evidence that the amount stated in the notice of assessment is due and owing.

Offence by corporation

169.58 If a corporation commits an offence under this Part, 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

169.59 The time limit for laying an information for an offence under this Part is 6 years after the date that the facts on which the information is based arose.

Division 11 – Regulations

General regulation powers

- 169.6**
- (1) Without limiting section 46 (1), the Lieutenant Governor in Council may make regulations respecting any matter for which regulations are contemplated by this Part.
 - (2) The authority to make regulations under another provision of this Part does not limit subsection (1) or section 46 (1).
 - (3) The Lieutenant Governor in Council may make regulations as follows:
 - (a) defining a word or expression used but not defined in this Part;
 - (b) providing for exemptions from one or more provisions of this Part, including, without limitation, regulations doing one or more of the following:
 - (i) providing a full or partial exemption from the payment of tax under a provision of this Part;
 - (ii) establishing circumstances in which an exemption applies;
 - (iii) setting conditions of, or limitations on, the application of an exemption;
 - (c) prescribing parking sites or classes of parking sites for the purposes of section 169.07 (b), subject to the terms and conditions the Lieutenant Governor in Council specifies;

- (d) prescribing one or more classes of persons for the purposes of section 169.07 (c), subject to the terms and conditions the Lieutenant Governor in Council specifies;
 - (e) for the purposes of section 169.1 [*refunds authorized or required under the regulations*], providing for a refund of all or part of tax paid under this Part or under section 61 of the *Social Service Tax Act*, including, without limitation, regulations doing one or more of the following:
 - (i) permitting or requiring the payment of a refund to a person or a class of persons;
 - (ii) establishing circumstances in which a refund may or must be paid;
 - (iii) setting conditions of, or limitations on, the payment of a refund;
 - (f) respecting the manner of payment, collection or remittance of tax under this Part, the filing of returns for the payment, collection or remittance of tax under this Part, and any other conditions or requirements affecting the payment, collection or remittance of tax under this Part;
 - (g) respecting records to be kept by vendors in respect of sales of parking rights;
 - (h) requiring a vendor to provide prescribed information to a purchaser of a parking right in prescribed circumstances;
 - (i) respecting the duties of vendors;
 - (j) respecting interest rates and the manner of calculating interest for the purposes of this Part;
 - (k) respecting the payment of interest by the authority on an amount owing by the authority under this Part, and respecting the interest rates and the manner of calculating that interest.
- (4) In making a regulation under this Part, 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, parking rights, places, things or transactions, or classes of persons, parking rights, places, things or transactions;
 - (d) establish or define classes of persons, parking rights, places, things or transactions.
- (5) A regulation made before July 1, 2011 under this Division may be made retroactive to July 1, 2010 or a later date, and if made retroactive is deemed to have come into force on the specified date.

Regulations specifying tax for coin-operated purchases

169.61 Despite any other section in this Part, if the purchase price for a parking right that is taxable under this Part 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 Part.

Division 12 – Transitional Provisions**Continuation of bylaw setting rate of tax**

169.62 Subject to the authority passing a bylaw under section 30.1 setting a rate of tax payable under Part 7.1 that takes effect on July 1, 2010, if a bylaw under section 30.1 is in effect on June 30, 2010,

- (a) the bylaw is continued,
- (b) the rate of tax set by that bylaw as the rate of tax payable under section 61 (1) of the *Social Service Tax Act* is deemed to be set as the rate of tax payable under Part 7.1 of this Act, and
- (c) the rate of tax deemed to be set under paragraph (b) of this section takes effect on July 1, 2010.

Application of section 169.02

- 169.63** (1) Tax is payable by a purchaser under section 169.02 (1) in respect of a parking right if a portion of the purchase price of the parking right becomes due on or after July 1, 2010 and is not paid before July 1, 2010.
- (2) Tax is not payable by a purchaser under section 169.02 (1) in respect of a portion of the purchase price of a parking right if the purchaser must pay tax under section 61 of the *Social Service Tax Act* in respect of the portion of the purchase price of the parking right.
- (3) If tax is payable under section 169.02 (1) by reason of subsection (1) of this section, for the purpose of calculating the tax payable under section 169.02 (1), the purchase price of the parking right is deemed to be the portion of the purchase price of the parking right that is not paid before July 1, 2010 and becomes due on or after July 1, 2010.
- (4) Section 4.82 (1) and (4) of the *Social Service Tax Act* applies for the purposes of this section as if this section were an application section, except that a reference in that section to “tangible personal property” is to be read as “a parking right”.

Registration certificates

- 169.64** (1) Effective on July 1, 2010, a vendor who, immediately before that date, holds a registration certificate issued under the *Social Service Tax Act* is deemed to have been issued a registration certificate under section 169.17 of this Act.

- (2) The certificate deemed to be issued under subsection (1) has a term that ends on the date that is the earliest of the following:
 - (a) the end of the day on December 31, 2010;
 - (b) the date the deemed registration certificate is suspended or cancelled under this Act;
 - (c) the date the vendor is issued a registration certificate under section 169.17 of this Act.
- (3) This section is repealed on January 1, 2011.

Regulations – transitional

- 169.65** (1) Despite this 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, by the amendments to this Act made by the *Finance Statutes Amendment Act (No. 2), 2010*;
 - (b) making provisions that the Lieutenant Governor in Council considers appropriate for the purpose of more effectively bringing into operation the amendments to this Act made by the *Finance Statutes Amendment Act (No. 2), 2010*;
 - (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 into effect the amendments to this Act made by the *Finance Statutes Amendment Act (No. 2), 2010*, 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 from the amendments to this Act made by the *Finance Statutes Amendment Act (No. 2), 2010*.
- (2) A regulation under subsection (1) may be made retroactive to July 1, 2010 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 July 1, 2011.

78 Section 169.09 is amended

- (a) *in subsection (1) by striking out “or under section 61 of the Social Service Tax Act”, and*
- (b) *by repealing subsection (3).*

Section 79

79 Sections 169.1 (a) and (b) and 169.6 (3) (e) are amended by striking out “or under section 61 of the *Social Service Tax Act*”.

Transitional Provisions

Income Tax Act transition – application of Income Tax Act (Canada) provisions

80 Section 152 (9) of the *Income Tax Act* (Canada), as it applies for the purposes of the *Income Tax Act* (British Columbia), applies to appeals disposed of after June 17, 1999.

International Financial Activity Act transition – eligible proportion of income

81 Despite section 47 (c) of this Act, section 18 (3) of the *International Financial Activity Act* applies in respect of a taxation year that ends after March 2, 2010.

Logging Tax Act transition – assessments

82 Section 20 of the *Logging Tax Act*, as it read immediately before this section comes into force, continues to apply in respect of a taxpayer for a taxation year if the taxpayer has filed or was required to file a waiver for the taxation year under section 20 (3) (b) of that Act as it read immediately before this section comes into force.

Commencement

83 The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 Provisions of Act	Column 2 Commencement
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Section 1	July 1, 2010
3	Section 5	December 14, 2007
4	Section 6	January 1, 2000
5	Section 7	September 1, 2010
6	Section 8	March 12, 2009
7	Section 9	January 1, 2005
8	Section 10	January 1, 2008
9	Sections 11 to 15	September 1, 2010
10	Section 18	September 1, 2010
11	Section 19	February 19, 2008
12	Sections 25 to 30	January 1, 2007
13	Section 32	January 1, 2007

Item	Column 1 Provisions of Act	Column 2 Commencement
14	Section 33	By regulation of the Lieutenant Governor in Council
15	Section 34	September 1, 2010
16	Section 36 (a) to (e)	March 3, 2010
17	Section 36 (f) and (g)	By regulation of the Lieutenant Governor in Council
18	Section 37	March 3, 2010
19	Section 38 (a)	By regulation of the Lieutenant Governor in Council
20	Section 38 (b)	March 3, 2010
21	Section 38 (c)	By regulation of the Lieutenant Governor in Council
22	Section 38 (d) and (e)	March 3, 2010
23	Sections 39 to 48	March 3, 2010
24	Section 49	September 1, 2010
25	Sections 50 to 60	March 3, 2010
26	Sections 62 to 64	By regulation of the Lieutenant Governor in Council
27	Section 68	By regulation of the Lieutenant Governor in Council
28	Section 70	July 1, 2010
29	Section 73	July 1, 2010
30	Section 74	July 1, 2014
31	Sections 75 to 77	July 1, 2010
32	Sections 78 and 79	July 1, 2014
33	Section 81	March 3, 2010