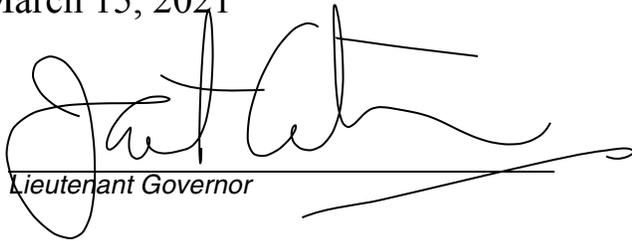


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 157

, Approved and Ordered March 15, 2021



Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective April 1, 2021, the attached Provincial Sales Tax Rebate on Select Machinery and Equipment Regulation is made.



Minister of Finance



Presiding Member of the Executive Council

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

Authority under which Order is made:

Act and section: *Provincial Sales Tax Act*, S.B.C. 2012, ss. 165 (1), 236 (4), 242 (1), (2) and (3) and 246

Other:

R10476202

PROVINCIAL SALES TAX REBATE ON SELECT MACHINERY AND EQUIPMENT

Contents

- 1 Definitions
- 2 Required refunds
- 3 Exceptions to refunds
- 4 Applications for refunds
- 5 Repayments of refunds
- 6 Records must be kept
- 7 Relationship to Provincial Sales Tax Exemption
and Refund Regulation
- 8 Transition

Definitions

1 In this regulation:

“**Act**” means the *Provincial Sales Tax Act*;

“**eligible investment**” means tangible personal property and software that

- (a) is included in capital cost allowance Class 8, 10, 12, 16, 38, 43, 43.1, 43.2, 46, 50, 53, 54 or 55 in Schedule II to the Income Tax Regulations (Canada) as they read on September 1, 2020,
- (b) is, in the case of tangible personal property obtained other than by lease, and in the case of software, purchased on account of capital,
- (c) is obtained substantially for the purpose of gaining or producing income, and
- (d) is not an ineligible investment;

“**ineligible investment**” means

- (a) a vehicle other than a zero-emission vehicle, or
- (b) tangible personal property to be installed as an improvement to real property, but does not include tangible personal property designed to supply electricity or hydrogen to a zero-emission vehicle;

“**zero-emission vehicle**” means a motor vehicle that is

- (a) a plug-in hybrid that has a battery capacity of at least 7 kWh, or
- (b) fully
 - (i) electric, or
 - (ii) powered by hydrogen.

Required refunds

- 2** (1) Subject to subsection (3), if the director is satisfied that a corporation
- (a) paid tax under the Act on or after September 17, 2020 and before October 1, 2021 in respect of an eligible investment that,
 - (i) in the case of tangible personal property, was used, purchased or brought into, sent into or received in British Columbia, or

- (ii) in the case of software taxed under Part 4 of the Act, was purchased for use on or with an electronic device ordinarily situated in British Columbia, and
 - (b) has not received a refund of the tax under the Act,the director must refund to the corporation the amount of that tax paid in respect of the eligible investment.
- (2) If the director is satisfied that a corporation
 - (a) paid tax under the Act on or after September 17, 2020 and before October 1, 2021 in respect of a lease of an eligible investment, and
 - (b) has not received a refund of the tax under the Act,the director must refund to the corporation the amount of that tax paid in respect of the eligible investment.
- (3) Subsection (1) does not apply to a leased eligible investment.

Exceptions to refunds

- 3** (1) Section 2 does not apply to the following:
 - (a) a Crown corporation;
 - (b) a local government corporation;
 - (c) a charity or non-profit or not-for-profit corporation other than an incorporated business that is wholly or partly owned by a charity or non-profit or not-for-profit corporation;
 - (d) a school, school board or university, including a business, trade or vocational school;
 - (e) a hospital;
 - (f) a regional health board or community health council designated under the *Health Authorities Act*;
 - (g) an agent of the government or of another entity listed in paragraphs (a) to (f) in respect of tax paid under the Act as the agent;
 - (h) tax paid under the Act after the latest date permitted by the Act;
 - (i) tax paid under section 89, 90 or 112 of the Act by a small seller;
 - (j) tax paid under section 99 of the Act by an independent sales contractor.
- (2) The director must not provide a refund under this regulation to an applicant who is eligible for a refund under another provision of the Act or the regulations.

Applications for refunds

- 4** (1) An application for a refund under this regulation must be made in a form and manner that are acceptable to the director.
- (2) A corporation may make a maximum of 2 applications for refunds under this regulation, provided that
 - (a) each application is made on or after April 1, 2021 and before April 1, 2022, and
 - (b) only one application is made on or before September 30, 2021.

Repayments of refunds

- 5 (1) Subject to subsection (7), if a corporation
- (a) receives a refund under this regulation in respect of an eligible investment other than a leased eligible investment, and
 - (b) continues to own the eligible investment but uses it, or allows it to be used, other than substantially for the purpose of gaining or producing income within 2 years of the purchase, bringing or sending in, or receipt of the eligible investment,
- the corporation must repay to the government an amount equal to the tax that would have been payable under section 82 of the Act as if the tax were payable under that section in respect of the use, or the allowed use, of that eligible investment.
- (2) Subject to subsection (7), if a corporation
- (a) receives a refund under this regulation in respect of a leased eligible investment, and
 - (b) continues to lease the eligible investment but uses it, or allows it to be used, other than substantially for the purpose of gaining or producing income within the lease period in respect of which the refund was paid,
- the corporation must repay to the government an amount equal to the tax paid in respect of the lease period during which the use or allowed use occurred.
- (3) An amount payable under subsection (1) or (2) must be repaid on or before the last day of the month after the month in which the corporation first uses the eligible investment, or allows the eligible investment to be used, as referred to in subsection (1) (b) or (2) (b).
- (4) Despite subsection (3), an amount payable under subsection (1) or (2) by a corporation that is a registrant must be repaid on or before the following date, as applicable:
- (a) if the registrant's reporting period is a period of one or more months, the last day of the month after the end of the registrant's reporting period in which the registrant first uses the eligible investment, or allows the eligible investment to be used, as referred to in subsection (1) (b) or (2) (b), or
 - (b) if the registrant's reporting period is not a period of one or more months, 30 days after the end of the registrant's reporting period in which the registrant first uses the eligible investment, or allows the eligible investment to be used, as referred to in subsection (1) (b) or (2) (b).
- (5) If a corporation
- (a) receives a refund under this regulation in respect of an eligible investment, and
 - (b) receives from the seller or lessor of the eligible investment a refund or credit of all or a portion of the purchase or lease price of the eligible investment,
- the corporation must repay to the government an amount equal to the tax that is attributable to the amount of the refund or credit of the purchase or lease price.

- (6) An amount payable under subsection (5) must be repaid on or before the last day of the month after the month in which the corporation receives from the seller or lessor of the eligible investment the refund or credit, as referred to in subsection (5) (b).
- (7) Subsections (1) and (2) do not apply if the use, or allowed use, referred to in paragraph (b) of those subsections is one that qualifies for an exemption from tax under the Act.

Records must be kept

- 6** A corporation that applies for a refund under this regulation must keep records sufficient to provide the director the particulars of purchases, leases, bringing in, sending in, receipt of and use of eligible investments, including proof of payment of the tax under the Act.

Relationship to Provincial Sales Tax Exemption and Refund Regulation

- 7** For the purposes of sections 149 (3), 150 (2), 151 (3), 152 (3), 153 (3), 154 (3) and 155 (3) of the Provincial Sales Tax Exemption and Refund Regulation, a refund given under section 2 of this regulation is not a refund of tax paid under the Act.

Transition

- 8** (1) Section 2 (1) does not apply to tax paid in relation to an eligible investment that is tangible personal property delivered on or after October 1, 2021, unless
 - (a) the corporation paid the tax in full on or before September 30, 2021, and
 - (b) a written contract specified that the eligible investment would be delivered on or before November 30, 2021.
- (2) Section 2 (1) does not apply to tax paid in relation to an eligible investment that is software incapable of being used before October 1, 2021, unless
 - (a) the corporation paid the tax in full on or before September 30, 2021, and
 - (b) a written contract specified that the eligible investment would be delivered on or before November 30, 2021.
- (3) Section 2 (2) does not apply to tax paid in relation to a leased eligible investment if the lease period
 - (a) includes a right to use the leased eligible investment after November 30, 2021, or
 - (b) does not include a right to use the leased eligible investment on or after September 17, 2020.