

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council Number

, *Approved and Ordered*

DRAFT #10, July 27, 2001

Lieutenant Governor

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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 July 31, 2001, the Social Service Tax Act Regulations, B.C. Reg. 84/58, is amended as set out in the attached Schedule.

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: *Social Service Tax Act, RSBC 1996, c 431, section 138 (1) (q)*

Other (specify): *o.c. 1388/48*

July 27, 2001

/01/37/mgm

SCHEDULE

- 1 *Section 2.36 of the Social Service Tax Act Regulations, B.C. Reg. 84/58, is amended by striking out “drill bits.”.*
- 2 *Section 2.50 is repealed.*
- 3 *Section 3.29 (1) is amended*
 - (a) *by repealing paragraph (b) (i), and*
 - (b) *by repealing paragraphs (c) and (f) and substituting the following:*
 - (f) any vehicle on which seismic recording equipment or well logging equipment is permanently mounted;
- 4 *The following Division is added:*

DIVISION 13 – EXEMPTIONS FOR PRODUCTION MACHINERY OR EQUIPMENT

Definitions and interpretation

13.1 (1) In this Division:

“**custom software**” means modifications to software, modified software and custom software referred to in paragraphs (a), (b) and (c) of the definition of “software” in section 1 of the Act;

“**exclusively**” means more than 90%;

“**logging**” means

- (a) felling or bucking of trees,
- (b) skidding or otherwise moving trees or logs to a landing or other first point of accumulation, or
- (c) loading, unloading, sorting or storing of trees or logs at landings, log dumps, sort yards, dry land sorts, booming grounds or mill yards,
but does not include
- (d) construction or maintenance of landings, log haul roads or other roads, or
- (e) silviculture;

“**machinery or equipment**” includes apparatus;

“**manufactured cost**” means the manufacturer’s

- (a) direct cost of materials, not including federal goods and services tax,
- (b) direct cost of labour, and
- (c) manufacturing overhead;

“manufacturer” means a person who fabricates, manufactures, processes or produces tangible personal property

- (a) for sale, if there is a reasonable expectation that the total value of sales of that tangible personal property will exceed \$30 000 per year,
- (b) for lease or for the person’s own business use, if there is a reasonable expectation that the total manufactured cost of that tangible personal property will exceed \$30 000 per year,
- (c) for a purpose referred to in both paragraphs (a) and (b), if there is a reasonable expectation that the total value of sales of that tangible personal property will exceed \$30 000 per year, or
- (d) for a purpose referred to in both paragraphs (a) and (b), if the total value of sales is \$30 000 or less and there is a reasonable expectation that the total manufactured cost of that tangible personal property will exceed \$30 000 per year,

but does not include persons excluded under section 13.10;

“marketable product” means petroleum or natural gas that is available for sale for direct consumption as a domestic, commercial or industrial fuel;

“mineral” includes building and construction stone, marble, shale, clay, sand and gravel;

“primarily” means more than 50%;

“qualifying tangible personal property” means the tangible personal property referred to in the definition of manufacturer;

“tangible personal property” includes custom software.

(2) In this Division

- (a) a reference to “fabricate, manufacture, process or produce” includes developing software and custom software but does not include
 - (i) growing, harvesting or producing agriculture or aquaculture products or the raising of livestock,
 - (ii) logging, or
 - (iii) blending, combining, grading, grouping, mixing, packaging, re-packaging or sorting of tangible personal property unless such activities are one step in, or occur immediately after, the fabrication, manufacture, processing or production of tangible personal property and occur at the manufacturing site,
- (b) a reference to “use” in relation to “exclusively” and “primarily” does not include storing, keeping or retaining, and

- (c) a reference to “purchased or leased” with respect to tangible personal property includes tangible personal property that is brought or sent into British Columbia or the delivery of which is received in British Columbia.

Manufacturers

13.2 (1) For the purposes of section 76 (1) (k) of the Act and subject to subsections (2) to (4), the following are exempt from tax if purchased or leased by a manufacturer:

- (a) machinery or equipment for use primarily and directly in the manufacture of qualifying tangible personal property;
- (b) machinery or equipment for use primarily and directly in the manufacture of tangible personal property for use in the manufacture of the qualifying tangible personal property.

- (2) Subject to sections 13.9 and 13.10, if the machinery or equipment is for use in relation to a manufacturing operation other than an operation referred to in subsections (3) and (4), the exemption applies only in respect of machinery or equipment that is used at the manufacturing site from the point where the raw material is received to the point where the finished product is first stored or first placed on a vehicle, railway rolling stock, vessel, aircraft or other conveyance for removal from the manufacturing site, whichever occurs first.
- (3) Subject to sections 13.9 and 13.10, if the machinery or equipment is for use in relation to the operation of a mineral mine, the exemption applies only in respect of the machinery or equipment that is for use at the mine site from the point at which the raw material is extracted from the ground to the point where the finished product is placed on a vehicle, railway rolling stock, vessel, aircraft or other conveyance for removal from the mine site.
- (4) Subject to sections 13.9 and 13.10, if the machinery or equipment is for use in relation to the processing of petroleum or natural gas, the exemption applies only in respect of the machinery or equipment that is for use at the well head, or at a processing plant or refinery up to the point where the petroleum or natural gas has become a marketable product, including
 - (a) generators located at the well head, and
 - (b) pipes, regulators, compressors and other related equipment dedicated to the transmission of waste gas, composed primarily of hydrogen sulphide and carbon dioxide, within a gas processing plant or from a gas processing plant to a disposal well for the sole purpose of injecting waste gas into the disposal well for permanent disposal.

Logging

13.3 For the purposes of section 76 (1) (k) of the Act and subject to sections 13.9 and 13.10, machinery or equipment is exempt from tax if purchased or leased by a person who, for commercial purposes, regularly engages in logging and that machinery or equipment is for use exclusively in logging

- (a) for felling trees,

- (b) from the point of removal of logs from the stump to the depositing of logs in a landing or other first accumulation point, or
- (c) for loading, unloading, sorting or storing of trees or logs at landings, log dumps, sort yards, dry land sorts, booming grounds or mill yards.

Exploration for, discovery of or development of petroleum or natural gas

13.4 For the purposes of section 76 (1) (k) of the Act and subject to sections 13.9 and 13.10, the following machinery or equipment is exempt from tax if purchased or leased by a person who, for commercial purposes, regularly engages in the exploration for, discovery of or development of petroleum or natural gas if that machinery or equipment is for use exclusively in the exploration for, discovery of or development of petroleum or natural gas:

- (a) drilling rigs, including derricks, substructures, support mats and foundations, circulating systems, pumps, cement equipment and engines or power plants that are part of a drilling rig, but not including automotive units on which the drilling rig is transported, cementing trucks or fracturing trucks;
- (b) truck mounted service rigs;
- (c) hardware for use during the drilling process, including drill bits, drill collars, drill pipes, blowout preventors, casing, tubing, fittings, couplings and thread protectors;
- (d) equipment for use in well logging and drill stem testing, including instrumentation;
- (e) machinery or equipment for use during the production or testing phase, including separator vessels, dehydrators and heaters, pressure piping systems and appurtenances, flare stacks, pumps and motors.

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Exploration for minerals or development of mines

13.5 (1) For the purposes of section 76 (1) (k) of the Act and subject to sections 13.9 and 13.10, machinery or equipment is exempt from tax if purchased or leased by a person who, for commercial purposes, regularly engages in exploration for minerals or the development of mines and that machinery or equipment is for use exclusively in the exploration for minerals or the development of mines.

- (2) The exemption under subsection (1) includes the following machinery or equipment:
 - (a) drilling rigs, drills, drill bits and rock saws;
 - (b) mucking machines, slushers, mine cars and rails, trammers, hoists and skips;
 - (c) bulldozers, backhoes and excavators unless more than 10% of their use is for construction or maintenance of roads;
 - (d) pickaxes and shovels;
 - (e) safety equipment, pumps, ventilating equipment and compressors;
 - (f) generators or motors used to operate exempt equipment;

- (g) haulage equipment;
- (h) assay equipment;
- (i) wire rope and seismic shot-hole casing;
- (j) casing guides and cement equipment but not including cement trucks.

Geophysical surveying

13.6 For the purposes of section 76 (1) (k) of the Act and subject to sections 13.9 and 13.10, the following machinery or equipment is exempt from tax if purchased or leased by a person who, for commercial purposes, regularly engages in the exploration for petroleum, natural gas or minerals or the development of petroleum, natural gas or mineral deposits and that machinery or equipment is for use exclusively in the exploration for or development of petroleum, natural gas or minerals:

- (a) magnetometers, gradiometers and magnetic susceptibility meters;
- (b) gravity meters and other instruments designed to measure the elements, variations and distortions of the natural gravitational force;
- (c) field potentiometers, meggers, non-polarizing electrodes and electrical equipment for making measurements in drill holes;
- (d) equipment for electrical or electromagnetic surveying including self-potential meters, resistivity survey equipment, time and frequency domain induced polarization equipment and time and frequency electromagnetic surveying equipment and inductive conductivity probes;
- (e) ground penetrating radar equipment and side looking aperture radar;
- (f) equipment for remote sensing including ultraviolet lamps and reflectance, infrared and hyperspectral spectrometers;
- (g) instruments or equipment for seismic prospecting including the recording system, seismic instrumentation, geophones, cables, data processing units, global positioning and navigation systems, recorder box, blasting system, blaster and controller, seismic drilling equipment, heli-drills, enviro-drills, vibrators and integrated navigation systems;
- (h) scintillometers, spectral gamma-gamma density and geiger muller counters, gamma-ray spectrometers, potassium gradiometers and other instruments for radioactive methods of geophysical prospecting;
- (i) acoustical survey equipment including sonar, side scanning sonar and full wave form sonic loggers;
- (j) electrical and electronic amplifying devices and electrical thermostats designed for use with any of the machinery or equipment described in paragraphs (a) to (i).

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Pollution control

- 13.7** For the purposes of section 76 (1) (k) of the Act and subject to sections 13.9 and 13.10, machinery or equipment for use exclusively and directly in the detection, prevention, measurement, treatment, reduction or removal of pollutants in water, soil or air is exempt from tax if the pollutants are attributable to the manufacture of tangible personal property.

Waste management

- 13.8** For the purposes of section 76 (1) (k) of the Act and subject to sections 13.9 and 13.10, machinery or equipment for use exclusively and directly in carrying refuse or waste from the machinery or equipment referred to in section 13.2, or for use exclusively and directly for exhausting dust or noxious fumes from the machinery or equipment referred to in section 13.2, is exempt from tax.

Exclusions from exemption under section 76 (1) (k) of the Act

- 13.9** Despite anything in sections 13.2 to 13.8, the exemption under section 76 (1) (k) of the Act does not apply to the following:

- (a) materials, consumed or expended in the manufacture of tangible personal property, that do not otherwise qualify for exemption under this Act or regulation;
- (b) buildings and related machinery or equipment, furnishings, camp equipment, construction machinery or equipment;
- (c) logging trucks, well servicing trucks or any vehicles designed so that they can be used on a public highway, unless exempted under section 13.4 (b);
- (d) vessels, railway rolling stock, locomotive engines and non-turbine aircraft;
- (e) electric generators and electric alternators that are portable or mobile, including drive motors for them, generator and alternator sets that are portable or mobile, stand-by electric generators and stand-by electric alternators, including drive motors, and standby-by generator and stand-by alternator sets unless exempted under section 13.2 (4) (a) or 13.5 (2) (f);
- (f) machinery or equipment, including transformers, pipes, valves and regulators, for use in the transmission or distribution of tangible personal property other than when the machinery or equipment are for use within a manufacturing site or at a mine site;
- (g) pipes, valves, fittings, pumps, compressors, regulators and equipment ancillary to any machinery or equipment that is for use in transporting or distributing petroleum or natural gas from the well head to the processing plant or refinery or between processing plants, or for use in transporting a marketable product unless exempted under section 13.2 (4) (b);
- (h) bases and foundations that become a part of the realty;
- (i) scaffolding, walkways, catwalks and similar equipment;

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- (j) machinery or equipment for use in relation to providing services, including
 - (i) the services of a barrister, solicitor, notary, accountant, engineer, architect, medical doctor, dentist, veterinarian, pharmacist or other professional, and
 - (ii) security alarm services and laundry and dry cleaning services.

Persons excluded from exemption under section 76 (1) (k) of the Act

13.10 The exemption under section 76 (1) (k) of the Act does not apply to the following:

- (a) a caterer;
- (b) a restaurateur or other person who prepares food products for retail sale on the premises where the food is prepared unless the retail sales of those food products comprise less than 10% of that person's total sales.
- (c) a person who engages in the production of motion pictures, television broadcasts and radio broadcasts, with respect to the machinery and equipment for use in such activities;
- (d) the government and its agents, including agencies, boards and commissions, but excluding the British Columbia Hydro and Power Authority, the British Columbia Railway Company, the Columbia Power Corporation and the Insurance Corporation of British Columbia;
- (e) a local government body as defined in Schedule 1 of the *Freedom of Information and Protection of Privacy Act*;
- (f) a corporation whose taxable income, determined for the purposes of the *Income Tax Act* (Canada), is exempt from income tax under section 149 (1) (d) to (d.6) of that Act, but excluding the British Columbia Hydro and Power Authority, the British Columbia Railway Company, the Columbia Power Corporation and the Insurance Corporation of British Columbia;
- (g) schools, school boards and universities, including business, trade and vocational schools;
- (h) hospitals;
- (i) regional health boards and community health councils designated under the *Health Authorities Act*.

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