
Expert Panel on Business Taxation

BC Wharf Operators' Association Submission

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Executive Summary

The BC Wharf Operators Association appreciates the opportunity to submit our suggestions with respect to improving business tax competitiveness and improvements to streamline the Provincial Sales Tax ("PST"). We recommend the following changes:

1. **Modify PST exemptions:** The previous PST taxed virtually all purchases made by our members including capital improvements that are needed to increase our ability to meet the expanding growth in shipping. We recommend modifying the exemptions for PST to encourage investment in our port facilities.
2. **Simplify PST exemptions:** The previous exemptions were tremendously complex and difficult to administer, often resulting in excess time spent analyzing regulations to determine differing applications of PST to equipment which perform the same functions.
3. **Streamline the PST remittance calculations:** The previous legislation required certain PST remittance calculations to be done manually, resulting in unnecessary errors and improper remittances. Furthermore, the penalties for such errors were not calculated on a net-remittance basis, as is the GST. We recommend adopting this same net-remittance legislation.

Who We Are

The BC Wharf Operators' Association represents the major Marine and Grain Terminal operations in the Lower Mainland of BC. Our members are responsible for storage and loading and/or discharging of cargo to and from deep sea vessels. Our ports play a key role in British Columbia exports, and are essential to its future growth.

Our 11 member companies directly employ over 3,500 British Columbians and indirectly contribute to an estimated 4,500 jobs. In 2011, our members directly provided 7.3 million hours of work throughout the Province and \$371 million in payroll.

An effective efficient wharf system is critical to transporting many of Canada's natural resources to external markets, such as forest products, coal, sulphur, potash and grains. It is essential that our goods transportation system be focused on minimizing the impact of transportation costs on the competitive pricing of our export commodities. The entire supply chain from origin to destination including rail, road, marine terminal operations, and vessel carriers must contribute to that competitiveness.

Our Industry also contributes significantly to the infrastructure requirements of the region through the Port Metro Vancouver Gateway Improvement Fee. The Fee is used to partner with other parties' contributions for road and rail improvements for the benefit of all citizens within the region.

Competitiveness Recommendations

We thank and congratulate the Government for addressing our members concerns with respect to Municipal Tax rates on their facilities with the passage of the *BC Port Property Tax Act* and the recent decision to make the provisions permanent with the elimination of the 2018 sunset clause. This action, which provides certainty with respect to municipal taxation of existing and new or expanded facilities, provided the basis for our members to consider significant capital investments in their facilities and equipment that will be required to meet projected growth in both import and export cargoes through this Gateway.

We also commend the government for their actions with respect to Personal Income and Corporate Tax rates that provide a very competitive tax environment that allows us to attract a highly skilled workforce.

Our members were very supportive of the move to the Harmonized Sales Tax and are very concerned with the implications of returning to the dual taxation of Goods and Services and Provincial Sales taxes from both a cost as well as an administrative perspective.

Modify PST Exemptions to Encourage Investment

The Pacific Gateway Transportation Strategy 2012-2020 calls for more than \$5 billion of private sector investments to increase the bulk and container terminal capacity in the Province. While our members have already started making these investments, the revision back to PST in 2013 will significantly increase the cost of these investments because virtually all of the equipment and materials purchased by our members will become taxable unless changes are made to the exemptions. In order to encourage and support these investments, we recommend:

- Providing an exemption for machinery and equipment purchased by a terminal operator for use directly in providing international freight transportation services.

While we recognize that an expanded exemption for PST will result in lower PST revenues, the additional jobs during the construction phase as well as ongoing employment from the increased capacity would more than offset this loss.

Simplify the structure of the exemptions

Our primary goal is a tax system that is simple and easy to administer. We appreciate that the Ministry of Finance has adopted a number of recommendations set out in the progress report of this panel including changing filing deadlines and affirming the Taxpayer Fairness and Service Code.

We are, however, very concerned that the return of the PST will mean going back to its very complicated exemption system. These labyrinthine regulations caused unnecessary paperwork, administration and audit costs, confusion and uncertainty. Minimizing the complexities of the tax would make the port system more internationally competitive and foster job growth both by lowering our costs and making our exports more attractive internationally. Additionally, a simplified structure would lower costs for government, both in investigation and enforcement.

The following examples highlight the complexity of the exemptions under the previous PST legislation:

- **Shiploaders and Loading Cranes:** Under the old PST legislation, the application of PST to both the purchase and repairs of equipment used to load ships, such as 'shiploaders' and container cranes, depended on whether the equipment ran on tracks or rails notwithstanding they performed the same functions. We would like the resale and repair of all equipment that becomes real property to be exempt from tax to simplify the administration of the tax.
- **Equipment brought in for Temporary Use:** Our members occasionally bring in very specialized equipment from outside of the Province for short periods of time because the equipment is not available from local suppliers. Under the old PST legislation, we (or our suppliers) were required to pay tax on 1/3 of the value of the equipment if the equipment was used for more than six days in any calendar year. While we appreciate the exclusion for certain barge mounted cranes used temporarily in the Province, we would like a simpler application of tax such that the PST is determined using a formula based on the equipment's fair market value and length of time in the Province.
- **Safety equipment:** While we appreciate that the government amended the regulations under the old PST to solve many of the problems with an exemption for safety equipment worn by workers, the regulation was still very difficult to administer. For example, while a hard hat and hearing protection were both exempt from PST, the cord that linked the two together so that a worker could hear instructions was taxable. Such distinctions are difficult to comply with. We would like an exemption that simply exempted equipment that is required as a result of safety regulations.

Streamline the PST remittance process

- We understand that approximately 80% of all previous PST audit assessments involved failure to correctly remit tax on equipment and other goods purchased from suppliers outside of the Province. The old PST had a complicated set of rules regarding calculating the tax due on 'imported' goods which required the PST on such purchases to be determined manually. We are very disappointed that the proposed legislation continues with this requirement. It would simplify our administration significantly if the PST could be calculated automatically rather than manually by basing the tax on consideration paid to the vendor rather than 'landed cost'.
- We appreciate that the proposed legislation will allow retailers to refund tax to customers in a broader range of circumstances. We would like similar rules for all taxpayers such that provincial auditors would legally be required to identify potential refunds and net them against liabilities before issuing assessments in the same way as for GST. Under the old PST, an overpayment of tax resulting in a refund could not be netted against a liability except for the purpose of determining interest; penalties continued to apply to the liability and auditors used different procedures to determine the validity of a refund claim.

Closing Summary

The BC Wharf Operators represent a key component in British Columbia's connection to the growing Asian market. By creating and maintaining a low-cost, productive distribution system, British Columbia will benefit from increased imports, exports and international competitiveness. A simple and administratively efficient tax system is an integral part of this chain. We hope the preceding suggestions will prove helpful, and we are confident that, by working together, British Columbia will adopt a tax system that will help us all succeed.