

BILL 15 – 2024

BUDGET MEASURES IMPLEMENTATION (RESIDENTIAL PROPERTY (SHORT-TERM HOLDING) PROFIT TAX) ACT, 2024

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

PART 1 – INTERPRETATION, SPECIAL RULES AND APPLICATION OF ACT

Definitions

1 In this Act:

“**assessment**”, in relation to an assessment under this Act, includes a reassessment;

“**commercial property**”, in relation to a taxable property, means a portion of residential property comprising the taxable property that, subject to any regulations, is primarily used for a commercial purpose;

“**commercial purpose**”, in relation to a residential property, does not include any of the following:

- (a) holding the residential property for sale;
- (b) renovating the residential property for sale;
- (c) providing accommodation, under a tenancy agreement or a short-term vacation rental arrangement, in a housing unit that is part of the residential property;
- (d) a non-residential purpose carried out in a housing unit that is part of the residential property;
- (e) a prescribed purpose;

“**commissioner**” means

- (a) subject to paragraph (b), the Commissioner of Income Tax appointed under the *Income Tax Act*, or

(b) another person designated under section 84 [*designation of commissioner*] of this Act by the minister to administer this Act;

“**common-law partner**” has the same meaning as in section 248 (1) of the federal Act;

“**common-law partnership**” means the relationship between 2 persons who are the common-law partners of one another;

“**dispose**”, in relation to a disposition of taxable property, means a sale of the taxable property in exchange for consideration in money or in kind;

“**federal Act**” means the *Income Tax Act* (Canada);

“**housing unit**” means a self-contained unit of residential accommodation with cooking, sleeping, bathroom and living area facilities, but does not include a float home or manufactured home as defined in section 1 of the *Manufactured Home Park Tenancy Act*;

“**net taxable income**”, in relation to a taxpayer, means the taxpayer’s net taxable income in respect of a taxable transaction as determined under section 11;

“**primary residence**”, in relation to a period, means the place in which an individual resides longer than any other place during the period;

“**residential property**” means the following:

- (a) a housing unit located in British Columbia together with any land subjacent or immediately contiguous to the housing unit;
- (b) land located in British Columbia together with any building or other structure on or in the land if
 - (i) the land is zoned all or in part for residential use, and
 - (ii) no part of the land, building or other structure is otherwise included in paragraph (a);

“**substantial renovation**”, in relation to an existing housing unit, means a renovation or alteration of the housing unit to the extent that

- (a) all or substantially all of the housing unit is removed or replaced, other than structural components, which include, without limitation, the roof, foundation, external walls, interior supporting walls, floors and staircases, or
- (b) the habitable area of the housing unit is increased by at least 100%;

“**tax**” means tax under section 8 [*tax payable on net taxable income*];

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

- (a) a beneficial interest in residential property;
- (b) a right to acquire a beneficial interest in residential property;

“taxable transaction” means a disposition of taxable property;

“taxpayer” means a person who is subject to tax, whether or not the person is liable to pay tax.

Reference aids

- 2 In this Act or a regulation made under this Act, if a reference to a provision of the federal Act is followed by italicized text in square brackets that is or purports to be descriptive of the subject matter of the provision, the text in square brackets
- (a) is not part of this Act or the regulation, and
 - (b) is to be considered to have been added editorially for convenience of reference only.

Treatment of trusts

- 3 (1) In this Act, unless the context otherwise requires, a reference to a trust is to be read as including a reference to the trustee of the trust.
- (2) For the purposes of this Act, unless the context otherwise requires,
- (a) a trust that holds residential property or a right to acquire residential property is deemed to hold, as trust property, property referred to in paragraph (a) or (b) of the definition of “taxable property”,
 - (b) a disposition of that trust property by the trust is deemed to be a disposition of taxable property by the trust, and
 - (c) a trust is deemed to be a person in respect of a disposition of that trust property.
- (3) This Act applies to a person that is a trustee as if
- (a) the person were a separate person in respect of any taxable property held by the person other than as a trustee of a trust, and
 - (b) the person were a separate person in respect of each trust for which the person is a trustee.

Determining period person holds taxable property

- 4 (1) The rules in this section apply for the purposes of this Act.
- (2) The period during which a person holds taxable property is to be determined as follows:
- (a) by counting forward from and including the day the person acquired the taxable property;
 - (b) by including the day the person disposed of the taxable property.

- (3) If a person acquires a right to acquire taxable property in respect of which a housing unit is under development or proposed for development, exercises the right and acquires the taxable property, the person is deemed to have acquired that taxable property on the date the person acquired the right to acquire that taxable property.
- (4) If a person acquires taxable property from a related person, the person is deemed, subject to subsection (5), to have acquired the taxable property on the date that the related person acquired the taxable property.
- (5) If there is a series of acquisitions of a taxable property, each of which is the acquisition of the taxable property by a person from a related person, the last person who acquired the taxable property from a related person is deemed to have acquired that taxable property on the date that the person from whom that taxable property was first acquired in the series of acquisitions acquired that taxable property.
- (6) Subsection (5) applies regardless of whether each person who acquired the taxable property in the series of acquisitions is related to each other.
- (7) A person disposes of taxable property
 - (a) on the date consideration for the disposition of the taxable property is received or receivable by the person, or
 - (b) if the consideration is payable by instalment, on the date the first instalment is received or receivable by the person.

Related individuals

- 5**
- (1) For the purposes of this Act, individuals are related individuals or individuals related to each other if
 - (a) the individuals are connected by blood relationship, marriage, common-law partnership or adoption, or
 - (b) immediately before a disposition of taxable property,
 - (i) each of the individuals held the taxable property for a minimum of 365 consecutive days, and
 - (ii) the residential property comprising the taxable property includes a housing unit that was the primary residence of each of the individuals during the period each individual held that taxable property.
 - (2) For the purposes of this section, 2 individuals are connected as follows:
 - (a) by blood relationship if one individual is
 - (i) the child or other descendant of the other individual, or
 - (ii) the sibling of the other individual;
 - (b) by marriage if one individual is married to
 - (i) the other individual, or

- (ii) a person who is connected by blood relationship to the other individual;
 - (c) by common-law partnership if one individual is in a common-law partnership with
 - (i) the other individual, or
 - (ii) a person who is connected by blood relationship to the other individual;
 - (d) by adoption if one individual has been adopted, either legally or in fact, as
 - (i) the child of the other individual, or
 - (ii) the child of a person who is connected by blood relationship, otherwise than as a sibling, to the other individual.
- (3) For the purposes of subsection (2), words referring to a child of an individual include
 - (a) a person
 - (i) who is or was wholly dependent on the individual for support, and
 - (ii) of whom the individual has, or immediately before the person attained the age of 19 years had, in law or in fact, custody and control,
 - (b) a child of the individual's spouse or common-law partner, and
 - (c) a spouse or common-law partner of a child of the individual.
- (4) For the purposes of subsection (2), words referring to a sibling of an individual include a person who is
 - (a) the sibling of the individual's spouse or common-law partner, or
 - (b) the spouse or common-law partner of the individual's sibling.
- (5) For the purposes of this section,
 - (a) the death of a spouse does not sever a connection between the surviving spouse and any other individual to whom the surviving spouse was connected immediately before the death of the spouse, and
 - (b) the death of a common-law partner does not sever a connection between the surviving common-law partner and any other individual to whom the surviving common-law partner was connected immediately before the death of the common-law partner.

Related persons

- 6 (1) For the purposes of this Act, the following are related persons, or persons related to each other:
 - (a) related individuals;

- (b) a corporation and a person or group of persons who control the corporation;
 - (c) 2 corporations if
 - (i) the corporations are controlled by the same person or group of persons, or
 - (ii) one of the corporations is controlled by the other corporation;
 - (d) a new corporation and any predecessor corporations if the new corporation formed as a result of the amalgamation of 2 or more predecessor corporations.
- (2) For the purposes of this section, a group of persons consists of
- (a) members, each of which is a person related to every other member of the group, or
 - (b) members, each of which, in relation to a corporation, is party to a written agreement respecting the right to elect directors of the corporation.
- (3) For the purposes of this section, a corporation is controlled by a person or a group of persons if the person or group has the right to elect the majority of the directors of the corporation.
- (4) For the purposes of this section, a person and one or more groups of persons may control a corporation.
- (5) For the purposes of this section, an amalgamation of 2 or more corporations occurs if all of the following requirements are met:
- (a) the amalgamation was effected under
 - (i) Division 3 of Part 9 of the *Business Corporations Act* or similar provisions of another enactment of British Columbia,
 - (ii) sections 181 to 186 of the *Canada Business Corporations Act* or similar provisions of another enactment of Canada, or
 - (iii) similar provisions of an enactment of another jurisdiction;
 - (b) all of the predecessor corporations are continued in the new corporation as a result of the amalgamation;
 - (c) the rights, properties and interests of each predecessor corporation continue to be the rights, properties and interests of the new corporation;
 - (d) the new corporation continues to be liable for the obligations of each predecessor corporation.

Application of Act

- 7
- (1) This Act applies to a person separately in respect of each taxable transaction by the person.
 - (2) This Act applies to a person in respect of a taxable transaction that occurs on or after January 1, 2025.

PART 2 – IMPOSITION OF TAX

Division 1 – Tax Payable

Tax payable on net taxable income

- 8** If a person who holds taxable property disposes of the taxable property less than 730 days after the person acquired that taxable property, the person must pay to the government tax on the person's net taxable income in respect of that taxable transaction in the amount determined under section 9 or 10.

Amount of tax payable

- 9** (1) Subject to section 10, the amount of tax payable in respect of the taxable transaction is as follows:
- (a) if the taxpayer held the taxable property for less than 366 days, the amount equal to 20% of the taxpayer's net taxable income in respect of that taxable transaction;
 - (b) if the taxpayer held the taxable property for more than 365 days, the amount obtained by multiplying the taxpayer's net taxable income in respect of that taxable transaction by the tax rate determined under subsection (2).
- (2) For the purposes of subsection (1) (b), the tax rate is the rate, rounded to the nearest one-thousandth, or, if the result obtained is equidistant from 2 consecutive one-thousandths, to the higher one-thousandth, that is determined by the following formula:

$$\text{rate} = 20\% \times \left[1 - \left(\frac{\text{days held} - 365}{365} \right) \right]$$

where

days held = the number of days the taxpayer held the taxable property.

Amount of tax payable if taxable property acquired on different dates

- 10** If the taxpayer acquired portions of the taxable property on different dates, the amount of tax payable by the taxpayer in respect of the taxable transaction is the amount determined by
- (a) making a separate calculation of the amount of tax payable under section 9 and each other amount determined under Divisions 2 and 3 of this Part in respect of each portion of the taxable property that was acquired by the taxpayer on a particular date and disposed of on a particular date, and
 - (b) totalling all amounts calculated in accordance with paragraph (a) of this section.

Division 2 – Net Taxable Income

Net taxable income

- 11** (1) A taxpayer's net taxable income in respect of a taxable transaction is equal to the taxpayer's taxable income in respect of the taxable transaction in the amount determined under section 13 less any amount deducted under section 12.
- (2) If a taxpayer's net taxable income in respect of a taxable transaction as determined under subsection (1) would, but for this subsection, be a negative amount, the taxpayer's net taxable income is deemed to be zero.

Primary residence deduction

- 12** (1) For the purposes of computing a taxpayer's net taxable income in respect of a taxable transaction, a taxpayer who is an individual may deduct the amount determined under subsection (2) if
- (a) the taxpayer held the taxable property that is the subject of the taxable transaction for a minimum of 365 consecutive days, and
 - (b) the residential property comprising the taxable property includes a housing unit that was the taxpayer's primary residence during the period the taxpayer held that taxable property.

- (2) For the purposes of subsection (1), a taxpayer may deduct the amount determined by the following formula:

$$\text{amount} = \$20\,000 \times \text{taxpayer's interest}$$

where

taxpayer's interest = the taxpayer's beneficial interest in the residential property comprising the taxable property that is the subject of the taxable transaction, expressed as a percentage of the entire beneficial interest in that residential property held by all persons.

- (3) For the purposes of computing a taxpayer's net taxable income in respect of a taxable transaction, a taxpayer that is a trust may deduct an amount determined under subsection (4) if
- (a) the taxpayer held the taxable property that is the subject of the taxable transaction for a minimum of 365 consecutive days, and
 - (b) that taxable property includes a housing unit that was the primary residence of at least one beneficiary of the trust during the period the taxpayer held the taxable property.

- (4) For the purposes of subsection (3), a taxpayer that is a trust may deduct the total of all amounts each of which is an amount determined by the following formula:

$$\text{amount} = \$20\,000 \times (\text{beneficiary's interest} \times \text{trust's interest})$$

where

beneficiary's interest = the interest in the trust of a beneficiary for whom the housing unit was the beneficiary's primary residence during the period the taxpayer held the taxable property, expressed as a percentage of the entire beneficial interest in that residential property held by the trust;

trust's interest = the trust's beneficial interest in the residential property, expressed as a percentage of the entire beneficial interest in that residential property held by all persons.

Division 3 – Taxable Income

Taxable income

- 13** (1) Subject to this section, a taxpayer's taxable income in respect of a taxable transaction is equal to the amount determined by deducting the following amounts from the proceeds from the disposition of the taxable property:
- (a) the taxpayer's cost of acquiring the taxable property;
 - (b) the taxpayer's cost of improving the residential property comprising the taxable property.
- (2) If a taxpayer's taxable income in respect of a taxable transaction as determined under subsection (1) would, but for this subsection, be a negative amount, the taxpayer's taxable income is deemed to be zero.
- (3) If a taxpayer disposes of a portion of the taxpayer's taxable property, the taxpayer may deduct under subsection (1) only that portion of the amounts referred to in subsection (1) (a) and (b) corresponding to the portion of the taxable property disposed of by the taxpayer.

Proceeds of disposition

- 14** (1) For the purposes of section 13, a taxpayer's proceeds from the disposition of taxable property are, subject to subsection (2), equal to the consideration received or receivable by the taxpayer for the disposition of the taxable property less the following amounts paid or payable by the taxpayer in respect of the disposition of the taxable property:
- (a) legal costs;
 - (b) appraisal costs;
 - (c) costs for trading services as defined in the *Real Estate Services Act*;

- (d) costs of a home inspection carried out by a home inspector licensed under the *Business Practices and Consumer Protection Act*;
 - (e) costs of a survey of any residential property comprising the taxable property;
 - (f) prescribed costs.
- (2) For the purposes of computing a taxpayer's proceeds from the disposition of taxable property under subsection (1),
- (a) the taxpayer is not required to include an amount of consideration received or receivable for the disposition of taxable property that is attributable to the disposition of commercial property, and
 - (b) the taxpayer may not deduct from any consideration received or receivable for the disposition of taxable property an amount of a cost referred to in subsection (1) (a) to (f) that is attributable to the disposition of commercial property.

Cost of acquisition

- 15** (1) For the purposes of section 13, a taxpayer's cost of acquiring taxable property is, subject to subsection (2), equal to the total of the consideration paid or payable by the taxpayer to acquire the taxable property and the following amounts paid or payable by the taxpayer in respect of the acquisition of the taxable property:
- (a) tax under section 2 (1) [*general tax imposed*] of the *Property Transfer Tax Act*, not including interest and penalties;
 - (b) legal costs;
 - (c) appraisal costs;
 - (d) fees for registration under the *Land Title Act*;
 - (e) costs of a home inspection carried out by a home inspector licensed under the *Business Practices and Consumer Protection Act*;
 - (f) costs of title insurance;
 - (g) costs of a survey of any residential property comprising the taxable property;
 - (h) tax under section 165 (1) of the *Excise Tax Act* (Canada);
 - (i) costs to obtain documentation required by home insurance providers;
 - (j) prescribed costs.
- (2) For the purposes of computing a taxpayer's cost of acquiring taxable property, the taxpayer may not, under subsection (1), include the following:
- (a) an amount of consideration paid or payable by the taxpayer to acquire the portion of the taxable property that, at the time of the disposition, is commercial property;

- (b) an amount of a tax, cost or fee referred to in subsection (1) (a) to (j) that is attributable to the acquisition of the portion of the taxable property that, at the time of the disposition, is commercial property.

Cost of improving residential property

- 16 (1) For the purposes of section 13 [*taxable income*], a taxpayer's cost of improving residential property comprising the taxable property is, subject to this section, equal to the total of the following amounts:
- (a) each outlay made or expense paid or payable by the taxpayer for an improvement that is of an enduring nature;
 - (b) the cost, paid or payable by the taxpayer, of any range, refrigerator, washing machine, dryer or other major appliance, other than a prescribed appliance, disposed of with the residential property;
 - (c) costs, other than prescribed costs, paid or payable by the taxpayer to assess the feasibility of constructing or placing a new housing unit on the residential property or undertaking a substantial renovation of an existing housing unit that is part of the residential property;
 - (d) prescribed costs.
- (2) The costs of the following outlays or expenses may not be included under subsection (1) (a):
- (a) the cost of annual, recurring or routine repair, maintenance or service;
 - (b) the financing costs in respect of an improvement;
 - (c) other prescribed outlays or expenses.
- (3) The following costs may not be included under subsection (1) (b):
- (a) the cost of annual, recurring or routine repair, maintenance or service;
 - (b) the financing costs in respect of a major appliance.
- (4) For the purposes of computing a taxpayer's cost of improving residential property comprising the taxable property, the taxpayer may not, under subsection (1), include any amount of an outlay, expense or cost referred to in subsection (1) (a) to (d) that is attributable to commercial property.

Ineligible amounts

- 17 (1) Despite sections 14 (1), 15 (1) and 16 (1), an amount referred to in subsection (2) of this section may not be
- (a) deducted under section 14 (1) from any consideration received or receivable by the taxpayer,
 - (b) included under section 15 (1) in the taxpayer's cost of acquiring taxable property, or
 - (c) included under section 16 (1) in the taxpayer's cost of improving residential property.

- (2) For the purposes of subsection (1), the amounts are the following:
- (a) costs otherwise paid or payable by the taxpayer to the extent that the taxpayer has been reimbursed or that an amount is receivable, or reasonably expected to be receivable, as a reimbursement at the time of filing of a tax return, whether the amount reimbursed or to be reimbursed is received as
 - (i) an inducement, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of inducement,
 - (ii) a refund, reimbursement, contribution or allowance, or
 - (iii) assistance, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of assistance;
 - (b) costs to the extent that the costs are not reasonable in the circumstances;
 - (c) costs to the extent that the costs have otherwise been deducted under section 14 or included under section 15 or 16;
 - (d) an amount that is in respect of an outlay or expense described in section 67.5 (1) [*non-deductibility of illegal payments*] of the federal Act;
 - (e) a fine or penalty imposed in relation to
 - (i) the acquisition or disposition of the taxable property, or
 - (ii) an improvement to the taxable property;
 - (f) prescribed costs.

PART 3 – EXEMPTIONS FROM TAX

Division 1 – Exemptions for Persons

Persons exempt from tax

- 18** (1) In this section, “**Indigenous nation**” means any of the following:
- (a) a band as defined in section 2 (1) of the *Indian Act* (Canada);
 - (b) the Nisga’a Nation;
 - (c) a Nisga’a Village;
 - (d) the shíshálh Nation continued under the *shíshálh Nation Self-Government Act* (Canada);
 - (e) the shíshálh Nation Government District continued under the *shíshálh Nation Self-Government Act* (Canada);
 - (f) a treaty first nation;
 - (g) the Westbank First Nation as defined in the agreement approved under the *Westbank First Nation Self-Government Act* (Canada);
 - (h) a prescribed Indigenous entity.

- (2) Subject to subsections (3) and (4), a person is exempt from tax in respect of a taxable transaction if the person is any of the following on the date of the taxable transaction:
- (a) a registered charity as defined in section 248 (1) of the federal Act;
 - (b) an association as defined in section 1 (1) of the *Cooperative Association Act*;
 - (c) the government;
 - (d) an agent of the government;
 - (e) an Indigenous nation;
 - (f) an organization included in the government reporting entity as defined in section 1 (1) of the *Budget Transparency and Accountability Act*;
 - (g) a government body as defined in section 1 of the *Financial Administration Act*;
 - (h) a local public body as defined in Schedule 1 of the *Freedom of Information and Protection of Privacy Act*;
 - (i) a public body referred to in Schedule 2 of the *Freedom of Information and Protection of Privacy Act*;
 - (j) a corporation owned by a municipality;
 - (k) a corporation owned by a regional district;
 - (l) a corporation owned by an Indigenous nation;
 - (m) a corporation described in section 149 (1) (i) [*miscellaneous exemptions*] of the federal Act;
 - (n) a non-profit organization described in section 149 (1) (l) of the federal Act;
 - (o) a limited-dividend housing company described in section 149 (1) (n) of the federal Act;
 - (p) a prescribed person.
- (3) A trust is exempt from tax in respect of a taxable transaction if, on the date of the taxable transaction,
- (a) the trustee of the trust is a person referred to in subsection (2) (a), (b), (m), (n), (o) or (p), or
 - (b) all of the beneficiaries of the trust are persons referred to in subsection (2) (a) to (p).
- (4) A partnership is exempt from tax in respect of a taxable transaction if, on the date of the taxable transaction, all of the partners in the partnership are persons referred to in subsection (2) (a) to (p).

Exemption for specified beneficiaries

- 19 A person is exempt from tax in respect of a taxable transaction if, in respect of the taxable transaction, the person is a beneficiary of a real estate investment trust, as defined in section 122.1 (1) of the federal Act, or other prescribed trust.

Division 2 – Exemptions for Residential Property

Exemption for residential property in specified locations

- 20 Residential property located in any of the following is exempt from tax:
- (a) a reserve as defined in section 2 (1) of the *Indian Act* (Canada);
 - (b) Nisga’a Lands;
 - (c) Nisga’a Fee Simple Lands as defined in the Definitions Chapter of the Nisga’a Final Agreement;
 - (d) shishálh lands as defined in section 2 (1) of the *shishálh Nation Self-Government Act* (Canada);
 - (e) treaty lands of a treaty first nation;
 - (f) Other Maa-nulth First Nation Lands as defined in the Definitions Chapter of the Maa-nulth First Nations Final Agreement;
 - (g) Other Tla’amin Lands as defined in the Definitions Chapter of the Tla’amin Final Agreement;
 - (h) Other Tsawwassen Lands as defined in the Definitions Chapter of the Tsawwassen First Nation Final Agreement.

Division 3 – Exemptions in Respect of Taxable Transactions

Exemption for construction on residential property without housing unit

- 21 (1) In this section, “**building activity**” means any of the following activities relating to the construction or placement of a housing unit on a residential property:
- (a) completing the clearing or excavating of the site for the housing unit;
 - (b) constructing or placing the housing unit on the residential property;
 - (c) any other prescribed activity necessary for the construction or placement of the housing unit.
- (2) A person is exempt from tax in respect of a taxable transaction consisting of a disposition of property referred to in paragraph (a) of the definition of “taxable property” if all of the following apply:
- (a) building activity occurs
 - (i) during the period the person held the taxable property that is the subject of the taxable transaction, and

- (ii) in relation to the construction or placement of a housing unit on the residential property comprising the taxable property;
- (b) that residential property did not include a housing unit when the person acquired the taxable property.

Exemption for builders and developers

- 22** (1) In this section:
- “**beneficiary**” does not include a beneficiary who is an individual;
 - “**partner**” does not include a partner who is an individual.
- (2) For the purposes of subsection (3),
- (a) despite section 6 (1) (a) and (b) [*related persons*], persons related to each other do not include related individuals or an individual who is a person related to a corporation,
 - (b) a beneficiary of a trust is a person related to the trust,
 - (c) a partner in a partnership is a person related to the partnership, and
 - (d) persons related to each other include a corporation and each member of a group of persons who control the corporation.
- (3) A person is exempt from tax in respect of a taxable transaction consisting of a disposition of property referred to in paragraph (a) of the definition of “taxable property” if all of the following apply:
- (a) in the ordinary course of the person’s business, the person or another person related to that person ordinarily undertakes
 - (i) the buying and selling of property for the purpose of constructing or placing buildings on the property, and
 - (ii) the construction or placement of buildings on property held for that purpose;
 - (b) the taxable property that is the subject of the taxable transaction was held by the person for the purpose referred to in paragraph (a) (ii).

Exemption for renovations and construction of additional housing units

- 23** (1) Subject to this section, a person is exempt from tax in respect of a taxable transaction consisting of a disposition of property referred to in paragraph (a) of the definition of “taxable property” if, during the period the person held that taxable property, any of the following apply:
- (a) there is a substantial renovation of an existing housing unit on the residential property comprising the taxable property;
 - (b) there is a demolition of an existing housing unit on the residential property comprising the taxable property and a new housing unit is constructed or placed on that residential property;

- (c) there is a housing unit added to an existing housing unit on the residential property comprising the taxable property;
 - (d) there is a housing unit constructed or placed on the residential property comprising the taxable property and there is an existing housing unit on the residential property.
- (2) Subsection (1) applies only if the renovation, addition, construction or placement of the housing unit is in accordance with the following, as applicable:
- (a) a bylaw of a local government with jurisdiction over the residential property;
 - (b) a building code established under the *Building Act*.

Exemption for exclusive commercial use

- 24** (1) Subject to subsection (2), a person is exempt from tax in respect of a taxable transaction consisting of a disposition of property referred to in paragraph (a) of the definition of “taxable property” if, during the entire period the person held the taxable property, the residential property comprising that taxable property was used exclusively for a commercial purpose.
- (2) Subsection (1) does not apply to a person if, in respect of the taxable transaction, the person is exempt from tax under any of the following provisions:
- (a) section 21 [*exemption for construction on residential property without housing unit*];
 - (b) section 22 [*exemption for builders and developers*];
 - (c) section 23 [*exemption for renovations and construction of additional housing units*].

Exemptions for specified circumstances

- 25** (1) In this section, “**eligible relocation**” means a relocation of an individual that occurs to enable the individual
- (a) to carry on a business or to be employed at a particular location, or
 - (b) to be a student enrolled full-time in a program at a post-secondary level at a particular location of a university, college or other educational institution.
- (2) Subject to subsection (5), a person who is an individual is exempt from tax in respect of a taxable transaction if the taxable transaction can reasonably be considered to occur due to, or in anticipation of, one or more of the following events:
- (a) the death of the person or an individual related to the person;
 - (b) a serious illness or disability of the person or an individual related to the person;

- (c) an eligible relocation of the person or the person’s spouse or common-law partner if
 - (i) both of the following apply in respect of the taxable property that is the subject of the taxable transaction:
 - (A) the residential property comprising the taxable property includes a place that was the primary residence of the person during the period beginning on the date the person acquired the taxable property and ending on the date that is the earlier of the relocation and the disposition of the taxable property;
 - (B) the distance between the place referred to in clause (A) and the particular location referred to in the definition of “eligible relocation” is at least 40 km greater than the distance between the new residence after the relocation and that particular location, or
 - (ii) all of the following apply in respect of the taxable property that is the subject of the taxable transaction:
 - (A) the person did not reside in the residential property comprising the taxable property for a longer period than any other place during the period beginning on the date the person acquired the taxable property and ending on the date that is the earlier of the relocation and the disposition of the taxable property;
 - (B) the distance between the place that was the person’s primary residence during the period referred to in clause (A) and the particular location referred to in the definition of “eligible relocation” is at least 40 km greater than the distance between the new residence after the relocation and that particular location;
 - (C) the distance between the residential property referred to in clause (A) and the new residence referred to in clause (B) is at least 100 km greater than the distance between the residential property referred to in clause (A) and the place referred to in clause (B);
- (d) one or more individuals related to the person becoming a member of the person’s household or the person becoming a member of the household of a related individual;
- (e) a prescribed event.

- (3) Subject to subsection (5), a person who is an individual is exempt from tax in respect of a taxable transaction if the taxable transaction can reasonably be considered to occur due to one or more of the following events that occurred before the disposition of the taxable property:
- (a) the breakdown of the marriage or common-law partnership of the person if the person has been living separate and apart from their spouse or common-law partner for at least 90 days prior to the disposition of the taxable property;
 - (b) an involuntary termination of the employment of the person or the person's spouse or common-law partner;
 - (c) a threat to the personal safety of the person or a related individual;
 - (d) a prescribed event.
- (4) Subject to subsection (5), a person is exempt from tax in respect of a taxable transaction if the taxable transaction can reasonably be considered to occur due to one or more of the following events that occurred before the disposition of the taxable property:
- (a) the person 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 I or II of Part III of that Act;
 - (b) the person has had a bankruptcy order made against them under the *Bankruptcy and Insolvency Act* (Canada);
 - (c) the person is a corporation and has obtained a court order granting a stay of proceedings under section 11.02 of the *Companies' Creditors Arrangement Act* (Canada);
 - (d) the person has had a winding-up order made against them under the *Winding-Up and Restructuring Act* (Canada) based in whole or in part on the person being insolvent;
 - (e) the person has made an application to the administrator under section 5 of the *Farm Debt Mediation Act* (Canada) and has been found by the administrator to be eligible to make that application;
 - (f) the person is a corporation and the only shareholder of the corporation is a person who is described in paragraph (a), (b), (c), (d) or (e);
 - (g) a housing unit becomes uninhabitable because the housing unit is destroyed by, or a housing unit may not be constructed on land comprising residential property because of damage caused by, any of the following:
 - (i) an earthquake;
 - (ii) a fire;

- (iii) a flood;
 - (iv) a landslide;
 - (v) a spill or leakage of oil, gas or another poisonous or dangerous substance;
 - (vi) any other natural disaster or dangerous event;
 - (h) the expropriation of the residential property;
 - (i) a prescribed event.
- (5) A trust is exempt from tax in respect of a taxable transaction if a beneficiary of the trust would be exempt under subsection (2), (3) or (4) if the subsection were read as if the beneficiary were the person in respect of the taxable transaction.

Exemption if property acquired through lottery

- 26** A person is exempt from tax in respect of a taxable transaction if the person acquired the taxable property as a result of any of the following:
- (a) a lawful lottery scheme within the meaning of section 207 of the *Criminal Code*;
 - (b) a draw or awarding of a prize if the only consideration provided by the person when the person acquired the taxable property is in the form of an entrance or admission fee, a ticket fee or another similar charge.

Exemption if property acquired as consequence of death

- 27** A person is exempt from tax in respect of a taxable transaction if the person acquired the taxable property as a direct consequence of the distribution of the property of a deceased person.

Exemption respecting related persons

- 28** A person, other than a trust, is exempt from tax in respect of a taxable transaction if the person disposed of the taxable property only to one or more related persons.

Exemption if foreclosure

- 29** A person is exempt from tax in respect of a taxable transaction if the person's disposition of the taxable property is due to any of the following:
- (a) the exercise of a power of sale by the registered owner of a charge on the residential property;
 - (b) any other order of a court ordering a sale of the residential property.

**Exemption respecting delay in construction
or placement of housing unit**

- 30** (1) A person is exempt from tax in respect of a taxable transaction consisting of a disposition of property referred to in paragraph (b) of the definition of “taxable property” if all of the following apply:
- (a) at the time the person acquired the taxable property, a housing unit was to be constructed or placed on the residential property comprising the taxable property that is the subject of the taxable transaction;
 - (b) during the period the person held the taxable property, the person was provided with an estimated completion date for the construction or placement of the housing unit that was more than 365 days after the estimated completion date provided to the person at the time of acquisition;
 - (c) each estimated completion date referred to in paragraph (b) of this subsection was provided in writing by a person who ordinarily undertakes the activities described in section 22 (3) (a) (i) and (ii) [*exemption for builders and developers*] in the ordinary course of that person’s business.
- (2) If an estimated completion date is not provided at the time of acquisition to the person who acquired the taxable property, for the purposes of subsection (1) (b), the last estimated completion date provided in accordance with subsection (1) (c) before the person acquired the taxable property is deemed to have been provided to the person at the time of acquisition.

PART 4 – ADMINISTRATION AND ENFORCEMENT

Division 1 – Returns, Payment of Tax and Excess Refund

Tax return – taxpayer

- 31** (1) Subject to this section and section 35 [*exemption from filing tax return*], a taxpayer must file with the commissioner a separate tax return in respect of each taxable transaction by the taxpayer.
- (2) If the taxpayer is a partnership, the partnership must file a single tax return in respect of each taxable transaction by the partnership.
- (3) The taxpayer must, without notice or demand, file the tax return under subsection (1) within 90 days after the date of the taxable transaction.

Tax return – person dealing with property or business of taxpayer

- 32 A trustee in bankruptcy, assignee, liquidator, receiver, administrator or any other person administering, managing, winding up, controlling or otherwise dealing with the property or business of a taxpayer who has not filed a tax return required under section 31 must file the tax return with the commissioner within 90 days after the date on which the person began dealing with the property or business of the taxpayer.

Extension of time

- 33 The commissioner may at any time extend the time established by section 31 or 32 for filing a tax return.

Tax return on demand

- 34 (1) On written demand given to a person by the commissioner, the person must file with the commissioner, on or before the date specified in the demand, a tax return in respect of a taxable transaction.
- (2) Subsection (1) applies whether or not a tax return has been or is required to be filed under section 31 or 32.

Exemption from filing tax return

- 35 A taxpayer is exempt from filing a tax return under section 31 [*tax return – taxpayer*] in respect of a taxable transaction in any of the following circumstances:
- (a) under section 18 [*persons exempt from tax*] or 19 [*exemption for specified beneficiaries*], the taxpayer is a person who is exempt from tax;
 - (b) under section 20 [*exemption for residential property in specified locations*], the residential property comprising the taxable property that is the subject of the taxable transaction is exempt from tax;
 - (c) under section 24 [*exemption for exclusive commercial use*], the taxpayer is a person who is exempt from tax in respect of the taxable transaction;
 - (d) prescribed circumstances.

Form and contents of tax return

- 36 (1) A tax return must be in the form and contain the information required by the commissioner.
- (2) A person required to file a tax return must
- (a) file the tax return electronically in the manner required by the commissioner, and
 - (b) file, with the tax return, any other information or records required by the commissioner.

Payment due with filed tax return

- 37 On or before the date a taxpayer is required to file a tax return in respect of a taxable transaction, the taxpayer must pay to the government the amount remaining unpaid of the taxpayer’s tax payable in respect of the taxable transaction.

When excess refund is payable

- 38 (1) If it appears from an inspection, audit, examination or investigation or from other information available to the commissioner that an amount has been refunded to a person in excess of the amount to which the person was entitled as a refund under this Act, the excess is deemed to be an amount that became payable to the government by the person on the day on which the amount was refunded.
- (2) If an amount applied under section 62 (2) [*refund of overpayment*] to an amount owing by a person is in excess of the amount to which the person is entitled as a refund under this Act, this section applies in respect of the amount applied as if that amount had been refunded to the person on the day the amount was applied to the amount owing.

Division 2 – Assessments

Definitions for Division

- 39 In this Division:
- “**assessable amount**”, in relation to a person, means
- (a) any tax payable by the person,
 - (b) any penalties payable under this Act by the person,
 - (c) an amount payable under section 38 [*when excess refund is payable*] by the person, and
 - (d) any interest payable under this Act by the person;
- “**normal reassessment period**” means the period referred to in section 41 (1) (b) [*assessments – general rules*] for a person in respect of a taxable transaction.

Examination of tax return and resulting assessment

- 40 After the commissioner receives a taxpayer’s return in respect of a taxable transaction and any other information or records required to be filed with the tax return, the commissioner must
- (a) examine the tax return, and
 - (b) assess the taxpayer for any assessable amounts in respect of the taxable transaction.

Assessments – general rules

- 41** (1) The commissioner may assess a person for an assessable amount in respect of a taxable transaction
- (a) at any time, if
 - (i) the person has failed to file a tax return in respect of the taxable transaction,
 - (ii) the person or a person filing the person’s tax return in respect of the taxable transaction has made any misrepresentation or committed any fraud
 - (A) in filing the tax return, or
 - (B) in supplying, at any time, other information or records under this Act in respect of the taxable transaction, or
 - (iii) a waiver filed under subsection (2) by the person in respect of the taxable transaction is in effect at that time, or
 - (b) within 6 years after the date of the original notice of assessment for the taxable transaction, in any other case.
- (2) A person may, before the expiration of the normal reassessment period for a taxable transaction, file with the commissioner a waiver for the taxable transaction.
- (3) A waiver filed under subsection (2) continues in effect until 6 months after the person files with the commissioner a notice revoking the waiver.
- (4) A waiver filed under subsection (2) and a notice filed under subsection (3) must be filed in the form and manner, and containing the information, required by the commissioner.
- (5) Despite subsection (1), an assessment to which subsection (1) (a) (ii) or (iii) applies in respect of a person for a taxable transaction may be made after the person’s normal reassessment period for the taxable transaction, but only to the extent that the assessment can reasonably be considered as relating to,
- (a) if subsection (1) (a) (ii) applies to the assessment, any misrepresentation made by the person or another person who filed the person’s tax return for the taxable transaction or any fraud committed by the person or that other person in filing the tax return or in supplying any other information or records under this Act, or
 - (b) if subsection (1) (a) (iii) applies to the assessment, a matter specified in the waiver filed with the commissioner for the taxable transaction.
- (6) The authority of the commissioner to assess a person for an assessable amount under sections 42 to 44
- (a) is in addition to the authority to make an assessment under section 40 or this section,

- (b) is not limited by the authority to make an assessment under section 40 or this section, and
- (c) does not limit the authority to make an assessment under section 40 or this section.

Consequential assessments after appeal

- 42** (1) This section applies in relation to a person if
- (a) a court has, on the disposition of an appeal by the person in respect of an assessment,
 - (i) allowed the appeal,
 - (ii) varied the decision from which the appeal was made, or
 - (iii) referred the decision back to the commissioner for reconsideration, and
 - (b) any further appeal is disposed of or the time for filing any further appeal has expired.
- (2) If this section applies in relation to a person, the commissioner must reassess the person for an assessable amount in accordance with the decision of the court.

Assessments of other amounts payable

- 43** The commissioner may at any time assess a person for any amount payable under section 38 [*when excess refund is payable*].

Assessments of penalties and interest

- 44** (1) The commissioner may assess a person for a penalty to which the person is liable under this Act, and any interest payable in relation to the penalty, but the assessment may not be made after the latest of the applicable dates by which the commissioner may assess, under the following provisions, a person in respect of whose liability the penalty is assessed:
- (a) section 41 [*assessments – general rules*];
 - (b) section 42 [*consequential assessments after appeal*].
- (2) The commissioner may at any time reassess a person
- (a) as is necessary to give effect to a cancellation under section 55 [*waiver or cancellation of penalty*] of all or part of a penalty otherwise payable under this Act by the person, or
 - (b) as is necessary to give effect to a cancellation under section 61 [*waiver or cancellation of interest*] of all or part of any interest otherwise payable under this Act by the person.

Rules relating to assessments

- 45 (1) Despite a prior assessment, or if no assessment has been made, a person continues to be liable for an amount owing to the government under this Act.
- (2) In making an assessment, the commissioner
- (a) is not bound by a tax return filed under this Act or any other information or records supplied under this Act, and
 - (b) may assess an assessable amount despite the filing of a tax return or the supply of any other information or records under this Act or if no tax return has been filed.
- (3) Subject to being amended or varied on appeal or by a reassessment, an assessment is valid and binding despite any error, defect or omission in the assessment or in procedure.

Notice of assessment

- 46 (1) After making an assessment in respect of a person, the commissioner must give the person a notice of assessment that includes a statement of the assessable amounts.
- (2) If a notice of assessment has been given to a person as required by this Act, the assessment is deemed to have been made on the date of the notice.
- (3) Evidence that a notice of assessment has been given is proof, in the absence of evidence to the contrary, that the amounts assessed under this Act are due and owing, and the onus of proving otherwise is on the person liable to pay the amounts assessed.

Anti-avoidance rule

- 47 (1) In this section:
- “avoidance transaction”** means a transaction
- (a) that, but for this section, would result, directly or indirectly, in a tax benefit, or
 - (b) that is part of a series of transactions, which series, but for this section, would result, directly or indirectly, in a tax benefit,
- but does not include a transaction that may reasonably be considered to have been undertaken or arranged primarily for bona fide purposes other than obtaining a tax benefit;
- “tax benefit”** means a reduction, avoidance or deferral of tax payable;
- “tax consequences”**, in relation to a person, means
- (a) an amount of tax payable by the person, or
 - (b) any amount, other than an amount referred to in paragraph (a), that is payable or refundable to the person under this Act or that is relevant for the purposes of calculating that amount;

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

- (2) For the purposes of this section, a series of transactions is deemed to include any related transactions completed in contemplation of the series.
- (3) If a transaction is an avoidance transaction, the commissioner may determine the tax consequences to a person in a manner that is reasonable in the circumstances in order to deny a tax benefit that, but for this section, would result, directly or indirectly, from that transaction or from a series of transactions that includes that transaction.
- (4) The tax consequences to any person, after the application of this section, must be determined only through an assessment under section 41 [*assessments – general rules*].

Division 3 – Administrative Penalties

Penalty for failure to file tax return

48 A taxpayer who fails to file a tax return under section 31 [*tax return – taxpayer*] in respect of a taxable transaction within the time required under that section is liable to a penalty equal to the total of the following:

- (a) the greater of
 - (i) \$500, and
 - (ii) 5% of the amount remaining unpaid of the taxpayer’s tax payable in respect of the taxable transaction on the date the tax return was required to be filed;
- (b) the amount determined by the following formula:

$$\text{amount} = 1\% \times A \times B$$

where

A = the greater of \$500 and the amount remaining unpaid of the taxpayer’s tax payable in respect of the taxable transaction on the date the tax return was required to be filed;

B = the number of months, not exceeding 12 and rounded down to the nearest whole number, in the period beginning on the date the tax return was required to be filed and ending on the earlier of

- (i) the date the tax return was filed, and
- (ii) the date the taxpayer is assessed a penalty under this section.

Penalty for repeated failure to file tax return

- 49** (1) A taxpayer is liable to a penalty determined under subsection (2) if all of the following apply:
- (a) the taxpayer fails to file a tax return under section 31 [*tax return – taxpayer*] in respect of a taxable transaction within the time required under that section;
 - (b) the taxpayer subsequently fails to file a tax return under section 34 [*tax return on demand*] in respect of a taxable transaction within the time required under that section;
 - (c) the taxpayer was assessed a penalty under section 48 in respect of a previous taxable transaction.
- (2) For the purposes of subsection (1), the penalty is equal to the total of the following:
- (a) the greater of
 - (i) \$500, and
 - (ii) 10% of the amount remaining unpaid of the taxpayer’s tax payable in respect of the taxable transaction on the date the tax return referred to in subsection (1) (a) was required to be filed;
 - (b) the amount determined by the following formula:

$$\text{amount} = 2\% \times A \times B$$

where

- A = the greater of \$500 and the amount remaining unpaid of the taxpayer’s tax payable in respect of the taxable transaction on the date the tax return referred to in subsection (1) (a) was required to be filed;
- B = the number of months, not exceeding 20 and rounded down to the nearest whole number, in the period beginning on the date the tax return referred to in subsection (1) (a) was required to be filed and ending on the earlier of
 - (i) the date the tax return was filed, and
 - (ii) the date the taxpayer is assessed a penalty under this section.

Penalty for failure to provide required information

- 50** If a person who is required to file a tax return fails to include in the return any required information or fails to file with the return any other required information or records, the person is liable, in respect of each failure, to a penalty equal to the greater of
- (a) \$100, and
 - (b) \$25 for each day during which the failure continues, to a maximum of \$2 500.

Penalty respecting information and records

- 51** (1) A person who fails to comply with a provision specified in subsection (2) is liable, in respect of each failure, to a penalty equal to the greater of
- (a) \$100, and
 - (b) \$25 for each day during which the failure continues, to a maximum of \$2 500.
- (2) For the purposes of subsection (1), the following provisions are specified:
- (a) section 63 (3) (a) [*production of records and answering questions at specified location*];
 - (b) section 63 (3) (b);
 - (c) section 63 (3) (c);
 - (d) section 64 [*requirement to provide records*];
 - (e) section 65 (3) [*demand for information*].

Penalty for interfering with inspection or audit

- 52** A person who contravenes section 63 (8) (a) or (b) [*interfering with inspection or audit*] is liable to a penalty of \$100 for each contravention.

Gross negligence

- 53** (1) In this section, “**additional tax**” means the amount by which the tax payable in respect of a taxable transaction calculated on the basis of accurate and complete information exceeds the tax payable in respect of the taxable transaction calculated on the basis of the false statement or omission described in subsection (2).
- (2) If a taxpayer knowingly, or under circumstances amounting to gross negligence, makes, or participates in, assents to or acquiesces in the making of, a false statement or an omission in a tax return, notice or other record filed or supplied or in information supplied under this Act in respect of a taxable transaction, the taxpayer is liable to a penalty equal to the greater of
- (a) \$100, and
 - (b) 50% of the additional tax.

Misrepresentation by third party

- 54** (1) Section 163.2 [*misrepresentation of a tax matter by a third party*] of the federal Act applies for the purposes of this Act with the changes the circumstances require for the purposes of this Act.
- (2) Without limiting subsection (1), in applying section 163.2 of the federal Act for the purposes of this Act, the following rules apply:
- (a) a reference in that section to the federal Act is to be read as a reference to this Act;
 - (b) a reference in that section to an assessment is to be read as a reference to an assessment under this Act;
 - (c) that section is to be read without reference to the definition of “excluded activity” in subsection (1) of that section and without reference to subsections (7) and (8) (b) (i) and (ii) of that section;
 - (d) subsection (5) of that section is to be read as if
 - (i) the reference to “subsection 163 (2)” were a reference to section 53 (2) of this Act, and
 - (ii) the reference to “return filed for the purposes of this Act” were a reference to “tax return, notice or other record filed or supplied or in information supplied under this Act”;
 - (e) subsection (10) of that section must be read as if the reference to section 163 (3) were a reference to subsection (3) of this section;
 - (f) subsection (15) of that section must be read as if the reference to “or an employee engaged in an excluded activity” were excluded.
- (3) In an appeal to the Supreme Court under section 70 [*appeal to court*] of this Act, the onus is on the minister to establish the facts justifying the assessment of a penalty to which a person is liable under this section.

Waiver or cancellation of penalty

- 55** The commissioner may at any time waive or cancel all or part of any penalty otherwise payable by a person under this Act.

Division 4 – Interest

Interest on unpaid taxes

- 56** If a taxpayer fails to pay tax as required under section 37 [*payment due with filed tax return*], the taxpayer must pay to the government interest on the amount unpaid from the date the tax was payable under that section until the date of payment.

Interest on excess refund

- 57 If an amount is deemed under section 38 (1) [*when excess refund is payable*] to be an amount payable by a person, the person is liable to pay interest on the amount from the date the amount became payable under that section until the date of payment.

Interest on penalties

- 58 A person must pay to the government interest on a penalty assessed under this Act as follows:
- (a) in the case of a penalty under section 48 [*penalty for failure to file tax return*], from the date on which the tax return was required to be filed until the date of payment;
 - (b) in the case of a penalty under section 49 [*penalty for repeated failure to file tax return*], from the date on which the tax return referred to in subsection (1) (a) of that section was required to be filed until the date of payment;
 - (c) in the case of a penalty under section 50 [*penalty for failure to provide required information*], from the date on which the tax return was filed until the date of payment;
 - (d) in the case of a penalty under section 53 (2) [*gross negligence*], from the date on which the tax return, notice or other record was filed or supplied, or the date on which the information was supplied, until the date of payment;
 - (e) in the case of any other penalty, from the date of the notice of assessment that specifies the amount of the penalty assessed until the date of payment.

Calculation of interest

- 59 Interest payable to the government under this Act must be calculated at the prescribed rate and in the prescribed manner.

No interest if full payment within 30 days

- 60 Despite any other provision of this Division, if
- (a) a notice of assessment or statement of account given to a person by the commissioner specifies an amount that is owing to the government under this Act by the person, and
 - (b) the person, within 30 days after the date of the notice of assessment or statement of account, pays the amount owing in full,
- interest is not payable on the amount owing from the date of the notice of assessment or statement of account until the date of payment.

Waiver or cancellation of interest

- 61 The commissioner may at any time waive or cancel all or part of any interest otherwise payable under this Act by a person.

Division 5 – Refunds

Refund of overpayment

- 62 (1) If the commissioner believes, based on the results from an inspection, audit, examination or investigation or other information available to the commissioner, that an overpayment has been made under this Act by a person, the minister, on the certificate of the commissioner as to the facts, must refund the amount overpaid to the person from the consolidated revenue fund.
- (2) Despite subsection (1), if there is an amount owing to the government under this Act by the person, the amount overpaid must first be applied in satisfaction of the amount owing, and notice must be given to the person, accompanied by the refund of the amount overpaid and remaining unapplied.
- (3) Despite subsections (1) and (2), if the amount to be refunded under subsection (1) or (2) is less than \$10, the amount overpaid, and, in the case of subsection (2), remaining unapplied, is deemed to be zero.

Division 6 – Inspections and Audits

Inspection and audit powers

- 63 (1) In this section:
- “**electronic**” has the same meaning as in the *Electronic Transactions Act*;
 - “**specified location**” means any place
 - (a) used by a person as a residence or in relation to a business carried on by the person, or
 - (b) where the records of a person are kept.
- (2) Subject to subsection (4), the commissioner may, at any reasonable time and for any purpose related to the administration or enforcement of this Act and the regulations,
- (a) enter a specified location,
 - (b) inspect, audit and examine records at the specified location,
 - (c) make copies of records, and
 - (d) subject to subsection (7), remove records from the specified location for the purpose of making copies.

- (3) A person occupying a specified location must do all of the following, as applicable:
 - (a) produce or provide electronic access to all records as may be required by the commissioner;
 - (b) in the case of records in electronic form, produce or provide electronic access to the records in the form and manner required by the commissioner;
 - (c) answer all questions of the commissioner relating to the matters referred to in subsection (2).
- (4) The power to enter a specified location under subsection (2) must not be used to enter a specified location that is occupied as a residence without the consent of the occupier except under the authority of a warrant issued under subsection (5).
- (5) On being satisfied by evidence on oath that entry on or into any place is necessary for any purpose relevant to the administration or enforcement of this Act and the regulations, a justice may issue a warrant authorizing an individual named in the warrant to enter the place in accordance with the warrant in order to exercise the powers referred to in subsection (2) (a) to (d).
- (6) The commissioner may make an application for a warrant under subsection (5) without notice to any other person.
- (7) If the commissioner removes records from a specified location for the purpose of making copies, the commissioner must return the records within a reasonable time.
- (8) A person must not
 - (a) interfere with, hinder or molest a person doing anything that the person is authorized to do under this section, or
 - (b) prevent or attempt to prevent a person from doing anything that the person is authorized to do under this section.

Requirement to provide records

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

Demand for information

- 65** (1) For any purpose related to the administration or enforcement of this Act or the regulations, the commissioner may, by giving a person a demand notice, require from the person
- (a) any information or additional information,
 - (b) the production of any records, or

- (c) a written statement.
- (2) A demand notice under subsection (1)
 - (a) must be given by leaving the demand notice with the person or by sending the demand notice to the person by registered mail,
 - (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) (c), may require the written statement to be made by way of affidavit or statutory declaration.
- (3) A person to whom a demand notice is given under this section must comply with the notice within the time specified in the notice.
- (4) The commissioner may issue a document certifying one or both of the following, and the document is proof of the facts certified in it:
 - (a) a demand notice was given to a person in accordance with subsection (2);
 - (b) a person has failed to comply with subsection (3) in respect of a demand notice given to the person under this section.

Records required to be kept

- 66**
- (1) A taxpayer must keep adequate records for the purposes of this Act.
 - (2) If the records kept by a taxpayer are, in the opinion of the commissioner, not adequate for the purposes of this Act, the commissioner may specify one or more of the following in respect of the records to be kept by the taxpayer:
 - (a) the information to be contained in the records;
 - (b) the form or manner in which the records are to be kept.
 - (3) A taxpayer who is required to keep records under this section must retain the records for a period of 6 years after the date of the taxable transaction to which the records relate.

Evidence – copies of records

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

PART 5 – APPEALS

Appeal to minister

- 68**
- (1) Subject to this section, an appeal to the minister lies from
 - (a) an assessment made under this Act, and
 - (b) a determination under section 79 (13) [*lien – associated corporations*].

- (2) Written notice of the appeal must be given to the minister within 90 days after the date of the notice of assessment or the determination, as the case may be.
- (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 minister must
 - (a) consider the matter,
 - (b) either
 - (i) affirm, amend or change the assessment, determination or nature of the assessment, or
 - (ii) direct the commissioner to reconsider the assessment, determination or nature of the assessment, and
 - (c) promptly give the appellant written notice of the result of the appeal.
- (5) In making a decision under subsection (4) (b) (i), the minister is not required to increase an amount set out in the assessment or determination.
- (6) If the commissioner does not change an assessment or determination, or the nature of an assessment, after a reconsideration under subsection (4) (b) (ii), the commissioner must issue a notice of reconsideration to the person who appealed to the minister.
- (7) A person may appeal a notice of reconsideration by giving a notice of appeal to the minister within 90 days after the date shown on the notice of reconsideration.
- (8) An appeal may not be made under this section in relation to an assessment made under any of the following provisions:
 - (a) section 43 [*assessments of other amounts payable*];
 - (b) section 44 (2) [*assessments of penalties and interest*].
- (9) The minister may, in writing, delegate any of the minister's powers or duties under this section.
- (10) A delegation under subsection (9) may be to a named person or to a class of persons.

Notice of appeal

- 69**
- (1) The date on which a notice of appeal is given to the minister under section 68 (2) or (7) is the date it is received by the minister.
 - (2) A notice of appeal is conclusively deemed to have been given to the minister if it is received at a location and by a method specified by the minister.

Appeal to court

- 70** (1) A decision of the minister under section 68 (4) (b) (i) may be appealed to the Supreme Court by way of a petition proceeding.
- (2) The Supreme Court Civil Rules relating to petition proceedings, other than Rule 18-3 [*Appeals*], apply to appeals under this section.
- (3) A petition must be filed in the court registry within 90 days after the date of the minister’s decision.
- (4) In a petition filed under this section, the government must be designated “His Majesty the King in right of the Province of British Columbia”.
- (5) Within 14 days after the filing of a petition under this section, the petition must be served on the government in accordance with section 8 of the *Crown Proceeding Act*.
- (6) An appeal under this section is a new hearing that is not limited to the evidence and issues that were before the minister.
- (7) The court may
- (a) dismiss the appeal,
 - (b) allow the appeal,
 - (c) vary the decision from which the appeal is made, or
 - (d) refer the decision back to the commissioner for reconsideration.

Irregularities

- 71** An assessment made under this Act 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 notice of assessment.

Tax collection not affected by pending appeal

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

If decision set aside or amount reduced on appeal

- 73
- (1) If the commissioner's or minister's decision is set aside, or the amount of an assessment or an amount owing to the government under this Act is reduced on appeal, the minister must refund to the appellant from the consolidated revenue fund the amount or excess amount paid by the appellant.
 - (2) If the amount of an assessment or determination is increased on appeal, the appellant must pay to the government
 - (a) the additional amount owing to the government under this Act, and
 - (b) any additional interest payable on the additional amount owing to the government under this Act.

PART 6 – RECOVERY OF AMOUNTS OWING

Joint and several liability of trust beneficiaries

- 74
- (1) If a trust distributes to a beneficiary any proceeds of disposition in respect of a taxable transaction before paying tax in respect of the taxable transaction as required under this Act, the beneficiary of the trust is, subject to subsection (2), jointly and severally liable for
 - (a) an amount of tax assessed under Division 2 [*Assessments*] of Part 4 [*Administration and Enforcement*] against the trust in respect of the taxable transaction,
 - (b) an amount payable under section 38 [*when excess refund is payable*] by the trust, and
 - (c) any interest payable on an amount referred to in paragraph (a) or (b).
 - (2) A beneficiary is not liable under subsection (1) for an amount in excess of the share of the proceeds of disposition paid to the beneficiary.
 - (3) The commissioner may assess a beneficiary in respect of an amount that has become payable under subsection (1) by the beneficiary.
 - (4) If the commissioner makes an assessment under subsection (3),
 - (a) the provisions of Division 2 of Part 4 apply in respect of the assessment as if it were an assessment made under that Division and as if the beneficiary assessed were the taxpayer in respect of the taxable transaction to which the assessment relates, and
 - (b) the commissioner must give a written notice of the assessment, including a statement of the amount of the liability, to the trustee of the trust in respect of whose tax the beneficiary is liable.

- (5) If, because of subsection (1), a beneficiary has become jointly and severally liable with another person in respect of all or part of the trust's liability under this Act,
- (a) a payment by the beneficiary on account of the trust's liability discharges the liability of both the trust and that beneficiary to the extent of the payment, and
 - (b) a payment by the trust on account of the trust's own liability only discharges the liability of the beneficiary to the extent that the payment reduces the trust's liability to an amount that is less than the amount in respect of which the beneficiary is liable under this section.
- (6) Despite sections 62 [*refund of overpayment*] and 73 [*if decision set aside or amount reduced on appeal*], subsection (7) of this section applies if the commissioner is satisfied that the total of the following exceeds the amount owed by the trust under this Act in respect of the taxable transaction in respect of which a beneficiary is liable with the trust:
- (a) the amount paid by one or more beneficiaries who are, under subsection (1), jointly and severally liable with the trust;
 - (b) the amount paid by the trust.
- (7) The minister, on the certificate of the commissioner, must pay from the consolidated revenue fund a refund in accordance with the following:
- (a) if only one particular beneficiary paid all or part of the amount for which one or more beneficiaries and the trust were jointly and severally liable under this section, a refund must be paid to the particular beneficiary of the amount of the excess, up to the amount paid by the particular beneficiary;
 - (b) if 2 or more particular beneficiaries paid all or part of the amount for which the particular beneficiaries and the trust were jointly and severally liable under this section, a refund must be paid to the particular beneficiaries of the amount of the excess divided equally among the particular beneficiaries, up to the amount paid by each particular beneficiary;
 - (c) after making the payment under paragraph (a) or (b), as applicable, a refund must be paid to the trust of any remaining amount of the excess, up to the amount paid by the trust.

Court proceeding to recover amount owing

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

Summary proceedings

- 76**
- (1) If a person fails to pay an amount owing to the government under this Act, the commissioner may issue a certificate specifying the amount owed and the name of the person who owes it.
 - (2) The commissioner may file with the Supreme Court a certificate issued under subsection (1).
 - (3) A certificate filed under subsection (2) has the same force and effect, and all proceedings may be taken on the certificate, as if it were a judgment of the court in favour of the government for the recovery of a debt in the amount specified in the certificate against the person named in the certificate.
 - (4) If the amount specified in a certificate is different from the actual amount owing to the government under this Act, the commissioner may correct the amount by issuing a new certificate specifying the revised amount owed and the name of the person who owes it.
 - (5) The commissioner may file with the Supreme Court a certificate issued under subsection (4).
 - (6) A certificate filed under subsection (5)
 - (a) revises the certificate filed under subsection (2) that names the same person,
 - (b) is deemed to be filed at the same time as the certificate it revises, and
 - (c) has the same force and effect, and all proceedings may be taken on the certificate, as if it were a judgment of the court in favour of the government for the recovery of a debt in the amount specified in the certificate against the person named in the certificate.

Alternative remedies

- 77**
- (1) Remedies available to the government for the recovery of an amount owing to the government under this Act may be exercised separately, concurrently or cumulatively.
 - (2) The liability of a person for the payment of an amount owing to the government under this Act is not affected by a fine or penalty imposed on or paid by the person for contravention of this Act.

Attachment of funds

- 78** (1) In this section, “**debtor**” means any person who is liable to pay an amount under this Act.
- (2) If the commissioner knows or suspects that a person is or is about to become indebted or liable to make a payment to a debtor, the commissioner may demand that that person pay to the government, on account of the debtor’s liability under this Act, all or part of the money otherwise payable to the debtor.
- (3) Without limiting subsection (2), if the commissioner knows or suspects that a person is about to advance money to or make a payment on behalf of a debtor, or make a payment in respect of a negotiable instrument issued by a debtor, the commissioner may demand that that person pay to the government, on account of the debtor’s liability under this Act, the money that would otherwise be advanced or paid.
- (4) A demand under this section must be given by leaving the demand with the person or by sending the demand to the person by registered mail, electronic mail or fax.
- (5) If under this section the commissioner demands that a person pay to the government, on account of a debtor’s liability under this Act, money otherwise payable by that person to the debtor as interest, rent, remuneration, a dividend, an annuity or other periodic payment, the demand
- (a) is applicable to all of those payments to be made by the person to the debtor until the liability under this Act is satisfied, and
 - (b) operates to require payments to the government out of each payment of the amount stipulated by the commissioner in the demand.
- (6) Money or a beneficial interest in money in a savings institution
- (a) on deposit to the credit of a debtor at the time a demand is given, or
 - (b) deposited to the credit of a debtor after a demand is given
- is money for which the savings institution is indebted to the debtor within the meaning of this section, but money on deposit or deposited to the credit of a debtor as described in paragraph (a) or (b) does not include money on deposit or deposited to the credit of a debtor in the debtor’s capacity as a trustee.
- (7) A demand under this section continues in effect until the earliest of the following:
- (a) subject to paragraphs (b) and (c), the demand is satisfied;
 - (b) subject to paragraph (c), 90 days after the demand is given;
 - (c) 3 years after the demand is given, if the demand is made in respect of an outstanding legal claim or insurance claim that, if resolved in the debtor’s favour, will result in money becoming available to the debtor.

- (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 given, in which case the demand ceases to have effect at the end of that period.
- (9) Money demanded from a person by the commissioner under this section becomes payable
 - (a) as soon as the person is given the demand, if that person is indebted or liable to make a payment to the debtor at the time the demand is given, or
 - (b) as soon as the person becomes indebted or liable to make a payment to the debtor, in any other case.
- (10) A person who fails to comply with a demand under subsection (2) or (5) is liable to pay to the government an amount equal to the amount that the person was required to pay under subsection (2) or (5).
- (11) A person who fails to comply with a demand under subsection (3) is liable to pay to the government an amount equal to the lesser of
 - (a) the total of the money advanced or paid, and
 - (b) the amount that the person was required to pay under subsection (3).
- (12) Money paid by any person to the government in compliance with a demand under this section
 - (a) satisfies the original liability to the extent of the payment, and
 - (b) is deemed to have been paid by that person to the debtor.

Lien

79

- (1) In this section:
 - “**amount owing**” means an amount owing to the government under this Act and any interest on that amount;
 - “**associated corporation**” includes a corporation that is determined under subsection (13) to be associated with another corporation for the purposes of this section;
 - “**collateral**” has the same meaning as in the *Personal Property Security Act*;
 - “**financing statement**” has the same meaning as in the *Personal Property Security Act*;
 - “**inventory**” has the same meaning as in the *Personal Property Security Act*;
 - “**personal property registry**” means the registry under the *Personal Property Security Act*;
 - “**proceeds**” has the same meaning as in the *Personal Property Security Act*;

“property”, when referring to the property of an associated corporation or a related individual, means property that is used in, or in conjunction with, the business in respect of which the amount referred to in subsection (2) is required to be levied and remitted;

“purchase money security interest” has the same meaning as in the *Personal Property Security Act*;

“security interest” has the same meaning as in the *Personal Property Security Act*.

- (2) If a person is required to pay an amount to the government under this Act and does not pay the amount, the commissioner may register a lien
 - (a) against the real property of
 - (i) the person, or
 - (ii) an associated corporation 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, or
 - (ii) an associated corporation of the personby registering a financing statement in the personal property registry.
- (3) On registration of a certificate of lien against the real property of a person under subsection (2) (a), a lien is created on the real property against which the lien is registered for the amount owing.
- (4) On registration of a lien against the personal property of a person under subsection (2) (b), a lien is created on the present and after acquired personal property in which the person has a legal or equitable interest for the amount owing.
- (5) A lien registered under subsection (2) (b) against personal property does not have priority over
 - (a) a security interest that secures unpaid wages under section 87 (3) [*lien for unpaid wages*] of the *Employment Standards Act*, regardless of when that security interest arises, or
 - (b) a purchase money security interest in collateral other than collateral that at the time the purchase money security interest attaches is inventory or its proceeds.

- (6) In relation to a certificate of lien registered under subsection (2) (a) against the real property of a person, the commissioner may register a certificate of lien in the form prescribed for the purposes of subsection (2) (a) in the appropriate land title office in the same manner that a charge is registered under the *Land Title Act* if
 - (a) the certificate of lien registered under subsection (2) (a) against the real property of the person contains a statement of the amount owing, and
 - (b) the commissioner is satisfied that the amount referred to in paragraph (a) of this subsection that is stated in that certificate of lien is incorrect.
- (7) In relation to a financing statement registered under subsection (2) (b) against the personal property of a person, the commissioner may register a financing change statement, as defined in the *Personal Property Security Act*, in the personal property registry if
 - (a) the financing statement registered under subsection (2) (b) against the personal property of the person contains a statement of the amount owing, and
 - (b) the commissioner is satisfied that the amount referred to in paragraph (a) of this subsection that is stated in that financing statement is incorrect.
- (8) A certificate of lien registered under subsection (6) and a financing change statement registered under subsection (7) must contain a revised statement of the amount owing.
- (9) On registration of a certificate of lien against the real property of a person under subsection (6), the certificate of lien registered under subsection (2) (a) against the real property of the person is, at the same time it was originally registered, deemed to be revised to set out the amount owing as stated in the certificate of lien registered under subsection (6).
- (10) On registration of a financing change statement against the personal property of a person under subsection (7), the financing statement registered under subsection (2) (b) against the personal property of the person is, at the same time it was originally registered, deemed to be revised to set out the amount owing as stated in the financing change statement registered under subsection (7).
- (11) Despite section 87 [*communication of information*], the commissioner must,
 - (a) on the oral or written request of a person, disclose in writing the amount of the lien under this section registered against the personal or real property of the person, or
 - (b) on the written request of a person accompanied by the written consent of a named person, disclose in writing the amount of the lien under this section registered against the personal or real property of the named person.

- (12) If the commissioner believes that one corporation is associated with another corporation within the meaning of section 256 [*associated corporations*] of the federal Act, the commissioner may request one or both of the corporations to provide to the commissioner the records and information required by the commissioner to confirm or rebut that belief.
- (13) The commissioner may determine that corporations are associated corporations for the purposes of this section if
 - (a) a corporation that has been requested to provide records or information to the commissioner under subsection (12) fails or refuses to comply with that request within a period of time considered by the commissioner to be reasonable in the circumstances, or
 - (b) the records or information provided to the commissioner under this section confirm the commissioner's belief that the corporations are associated.
- (14) 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 commissioner
 - (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.
- (15) The commissioner may seize personal property against which a lien is registered under subsection (14) (b) 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 (14) (a) was given to the corporation, and
 - (b) if a notice of appeal is given to the minister in respect of the determination within the time provided by section 68 (2) [*appeal to minister*], the date on which the minister upholds the determination under that appeal or directs the commissioner to reconsider the determination.
- (16) If, at any time, the commissioner becomes convinced that the corporations were not associated within the meaning of section 256 of the federal Act at the time that the lien was registered under subsection (14) (b) of this section or if the minister or a court of competent jurisdiction upholds the corporation's appeal against the commissioner's determination on the basis that the corporations were not associated at the time that the lien was registered, the commissioner must,
 - (a) if the commissioner has not realized on any of the assets against which the lien was registered, promptly release the lien, and

- (b) if the commissioner 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 commissioner considers it appropriate to do so, into the Supreme Court under Rule 10-3 [*Interpleader*] of the Supreme Court Civil Rules.
- (17) The release of the lien under subsection (16) (a) or the release of the lien and payment of the applicable net sale proceeds under subsection (16) (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 (13), 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

- 80**
- (1) In this section, “**secured party**” has the same meaning as in the *Personal Property Security Act*.
 - (2) This section applies to a person who, as assignee, liquidator, administrator, receiver, receiver manager, trustee, secured party or similar person, other than a trustee appointed under the *Bankruptcy and Insolvency Act* (Canada), takes control or possession of the property of a person who has an amount owing to the government under this Act.
 - (3) Before distributing the proceeds from the realization of the property referred to in subsection (2), a person to whom this section applies must obtain from the commissioner a certificate that the amount that constituted a lien under section 79 has been paid.
 - (4) If a person to whom this section applies distributes the proceeds from the realization of the property referred to in subsection (2) without having obtained the certificate required by subsection (3), the person is personally liable to the government for an amount equal to the amount required to be paid to obtain the certificate.
 - (5) An amount payable under subsection (4) in respect of a distribution of the proceeds from the realization of property must be paid on or before the last day of the month after the month in which the disposition occurred.

Notice of enforcement proceedings

- 81**
- (1) Before taking proceedings for the recovery of an amount owing to the government under this Act, the commissioner must give to the person who owes the amount notice of the commissioner’s intention to enforce payment.
 - (2) Failure to give notice under subsection (1) does not affect the validity of proceedings taken for the recovery of an amount owing to the government under this Act.

Limitation period

- 82**
- (1) In this section, “**collection proceeding**” means
 - (a) a proceeding for the recovery of an amount owing to the government under section 75,
 - (b) the filing of a certificate under section 76,
 - (c) the making of a demand under section 78, and
 - (d) the registration or enforcement of a lien under section 79.
 - (2) A collection proceeding may be commenced at any time within 7 years after the date of the notice of assessment for the amount claimed in the collection proceeding.
 - (3) Despite subsection (2), a collection proceeding that relates to a contravention of this Act or the regulations and that involves wilful default or fraud may be commenced at any time.
 - (4) If, before the expiry of the limitation period that applies under subsection (2) to an amount claimed, a person acknowledges liability in respect of the amount claimed, the date of the notice of assessment is deemed to be the day on which the acknowledgement is made.
 - (5) Subsection (4) does not apply to an acknowledgement, other than an acknowledgement referred to in subsection (6), unless the acknowledgement is
 - (a) in writing,
 - (b) signed, by hand or by electronic signature within the meaning of the *Electronic Transactions Act*,
 - (c) made by the person making the acknowledgement or the person’s agent, and
 - (d) made to the government or an agent of the government.
 - (6) In the case of an amount claimed to which the limitation period under subsection (2) applies, for the purposes of subsection (4), part payment of the amount by the person against whom the claim is or may be made or by the person’s agent is an acknowledgement by the person against whom the claim is or may be made of liability in respect of the claim.

- (7) Section 24 (2), (4) and (10) [*limitation periods extended if liability acknowledged*] of the *Limitation Act* applies for the purposes of this section.
- (8) The liability of a person for the payment of an amount owing to the government under this Act is not affected by the expiry of the limitation period that applies under subsection (2) to the amount claimed.

PART 7 – GENERAL

Definition for Part

- 83 In this Part, “**public body**” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*.

Designation of commissioner

- 84 The minister may designate a person who is appointed under the *Public Service Act* as commissioner to administer this Act.

Delegation

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

Duty of public bodies to provide information

- 86 A public body must, on the written request of the commissioner, provide without charge the information the commissioner considers necessary for the purposes of administering and enforcing the Act.

Communication of information

- 87 (1) In this section:
- “**authorized person**” means a person who is engaged or employed, or who was formerly engaged or employed, by or on behalf of the government of British Columbia to assist in carrying out the provisions of this Act;
- “**confidential information**” means information of any kind and in any form relating to one or more persons
- (a) that is obtained for the purposes of this Act by or on behalf of the minister, or
- (b) that is prepared for information referred to in paragraph (a),
- but does not include information that does not directly or indirectly reveal the identity of the person to whom the information relates;
- “**designated person**” has the same meaning as in section 241 (10) [*provision of information*] of the federal Act;

“**official**” means any person

- (a) who is employed in the service of, is engaged by or on behalf of, or occupies a position of responsibility in the service of the government of British Columbia, another province or Canada, or
- (b) who was formerly so employed or engaged or formerly occupied such a position,

and, for the purposes of subsections (2) and (3), “**official**” includes a designated person;

“**police officer**” means a police officer as defined in section 462.48 (17) of the *Criminal Code*.

- (2) Despite any other enactment or law, except as authorized by this section or section 79 (11) [*disclosure of amount of lien*], an official must not
 - (a) knowingly provide, or knowingly allow to be provided, any confidential information to any person,
 - (b) knowingly allow any person to have access to any confidential information, or
 - (c) knowingly use any confidential information otherwise than in the course of the administration and enforcement of this Act or for a purpose for which the information was provided under this section.
- (3) Despite any other enactment or law, an official must not be required, in connection with any legal proceedings, to give or produce evidence relating to any confidential information.
- (4) Subsections (2) and (3) do not apply in relation to the following:
 - (a) criminal proceedings that have been commenced by the laying of an information or the preferring of an indictment under an Act of the Parliament of Canada;
 - (b) any legal proceedings relating to the administration or enforcement of
 - (i) any enactment of British Columbia, another province or Canada that provides for the imposition or collection of a tax or duty,
 - (ii) the *Home Owner Grant Act*, or
 - (iii) the *Land Tax Deferment Act*.
- (5) Subject to subsection (6), an official may do one or more of the following:
 - (a) provide to any person confidential information that can reasonably be considered necessary for the purposes of the administration or enforcement of this Act, solely for those purposes;
 - (b) provide to any person confidential information that can reasonably be considered necessary for the purposes of determining
 - (i) any tax or other amount that is or may become payable by the person under this Act,

- (ii) any refund to which the person is or may become entitled under this Act, or
 - (iii) any other amount that is relevant for the purposes of a determination under subparagraph (i) or (ii);
- (c) provide confidential information as follows:
 - (i) to an official of the Department of Finance of the government of Canada, solely for the purposes of the formulation or evaluation of fiscal policy;
 - (ii) to an official solely for the purposes of the initial implementation of a fiscal policy;
 - (iii) to an official of the ministry, solely for the purposes of the formulation or evaluation of fiscal policy;
 - (iv) to an official solely for the purposes of the administration or enforcement of an enactment of British Columbia that provides for the imposition or collection of a tax or duty;
 - (v) to an official solely for the purposes of the administration or enforcement of an Act of the Parliament of Canada, or an enactment of another province, that provides for the imposition or collection of a tax or duty;
 - (vi) to an official solely for the purposes of the administration or enforcement of the *Home Owner Grant Act*, the *Land Tax Deferral Act* or the *Real Estate Development Marketing Act*;
 - (vii) to an official solely for the purposes of the compilation of statistical information by the government or the government of Canada, as the case may be;
 - (viii) to an official solely for the purposes of setting off, against any sum of money that may be due or payable by the government, a debt due to the government;
- (d) provide confidential information, or allow the inspection of or access to confidential information, as the case may be, under, and solely for the purposes of, the following provisions of the *Freedom of Information and Protection of Privacy Act*:
 - (i) section 44 (1) [*powers of commissioner in conducting investigations, audits or inquiries*];
 - (ii) section 61 (1) [*powers, duties and protections of adjudicator*];
- (e) provide confidential information, or allow the inspection of or access to confidential information, as the case may be, under, and solely for the purposes of, the following provisions of the *Auditor General Act*:
 - (i) section 15 [*staff in government or government organizations*];
 - (ii) section 16 [*access to information, documents or things*];

- (iii) section 17 [*summons and requests*];
- (f) provide confidential information relating to a person, other than information that may be requested from the commissioner under section 79 (11) [*disclosure of amount of lien*],
 - (i) to the person, and
 - (ii) with the consent of the person, to any other person;
- (g) use confidential information to compile information in a form that does not directly or indirectly reveal the identity of the person to whom the information relates;
- (h) provide confidential information solely for the purposes of the following provisions of the *Financial Administration Act*:
 - (i) section 17 [*write off of assets and uncollectable debts*];
 - (ii) section 18 [*extinguishment of debts*];
 - (iii) section 19 [*remissions*];
- (i) use, or provide to any person, confidential information solely for a purpose relating to the supervision, evaluation or discipline of an authorized person by the government in respect of a period during which the authorized person was employed by, or engaged by or on behalf of, the government to assist in the administration or enforcement of this Act, to the extent that the information is relevant for the purpose;
- (j) provide confidential information to a police officer, solely for the purposes of an investigation into whether an offence has been committed under the *Criminal Code*, or the laying of an information or the preferring of an indictment, if
 - (i) the confidential information can reasonably be considered necessary for the purpose of ascertaining, with respect to an official, or with respect to any person related to the official,
 - (A) the circumstances in which an offence under the *Criminal Code* may have been committed, or
 - (B) the identity of the person who may have committed an offence under the *Criminal Code*,
 - (ii) the official was or is engaged in the administration or enforcement of this Act, and
 - (iii) the offence can reasonably be considered to be related to the administration or enforcement of this Act;
- (k) provide confidential information to, or allow inspection of or access to confidential information by, any person otherwise legally entitled to the information under a prescribed enactment of British Columbia, solely for the purposes for which the person is entitled to the information.

- (6) Except in accordance with an agreement entered into under section 88, an official must not, under subsection (5) (a) to (c) or (h) to (k) of this section, provide confidential information to, or allow inspection of or access to confidential information by,
 - (a) an official of a public body other than the ministry of the minister,
 - (b) an official of the government of Canada, or
 - (c) an official of the government of another province.
- (7) An official may provide to appropriate persons any confidential information relating to imminent danger of death or physical injury to any person.
- (8) The person who presides at a legal proceeding in relation to the supervision, evaluation or discipline of an authorized person may make orders necessary to ensure that confidential information is not used or provided to any person for any purpose unrelated to the proceeding, including
 - (a) an order that the proceeding be held in private,
 - (b) an order banning publication of the confidential information,
 - (c) an order to conceal the identity of the person to whom the confidential information relates, and
 - (d) an order sealing the records of the proceeding.
- (9) To the extent of any inconsistency or conflict with the following provisions of the *Freedom of Information and Protection of Privacy Act*, this section applies despite that Act:
 - (a) section 32 [*use of personal information*];
 - (b) section 33 [*disclosure of personal information*].

Information-sharing agreements

- 88** (1) In this section:
- “**confidential information**” has the same meaning as in section 87;
 - “**information-sharing agreement**” means an agreement or arrangement to exchange, by electronic data transmission, electronic data matching or any other means, information for a purpose described in section 87 (5).
- (2) The minister may enter into an information-sharing agreement with
 - (a) a public body,
 - (b) the government of Canada or an agency of that government, or
 - (c) the government of a province or other jurisdiction in Canada or an agency of that government.
- (3) Subject to subsection (4), confidential information obtained by the minister under an information-sharing agreement may be used or disclosed only for the purposes for which it was obtained under the applicable agreement.

- (4) Subsection (3) does not prevent
 - (a) any confidential information obtained by the minister under an information-sharing agreement with the government of Canada or an agency of that government from being used or disclosed for the purpose of administering and enforcing
 - (i) an enactment administered by the minister that provides for the imposition and collection of a tax or duty,
 - (ii) the *Home Owner Grant Act*, or
 - (iii) the *Land Tax Deferral Act*, or
 - (b) any confidential information obtained by the minister under an information-sharing agreement from being used or disclosed for the purpose of administering and enforcing an Act of the Parliament of Canada that provides for the imposition or collection of a tax or duty.
- (5) The Lieutenant Governor in Council may prescribe terms and conditions to be included in the information-sharing agreements entered into by the minister.

How and when documents are given by commissioner

- 89**
- (1) Subject to this Act, if, under this Act, a document must or may be given by the commissioner to a person, the document may be given in accordance with subsection (2).
 - (2) The commissioner may give a document to a person as follows:
 - (a) if the person is an individual, by leaving the document with the individual;
 - (b) if the person is a corporation, by leaving the document with a board member or senior officer of the corporation;
 - (c) if the person is an extraprovincial corporation, by leaving the document with
 - (i) a person referred to in paragraph (b), or
 - (ii) an attorney for the extraprovincial corporation;
 - (d) if the person is a partnership, by leaving the document with an individual who is a member of the partnership;
 - (e) by leaving the document with a person apparently employed at the place of business of the person;
 - (f) by sending the document by ordinary mail or registered mail to the last known address of the person according to the records of the commissioner;
 - (g) by sending the document by electronic mail to the last known electronic mail address of the person according to the records of the commissioner;

- (h) by sending the document by fax to the last known fax number of the person according to the records of the commissioner;
 - (i) by sending the document by another communication method agreed to by the person and the commissioner.
- (3) If a person carries on business under a name or style other than the person's own name or style, a document to be given in accordance with this section may be addressed to the name or style under which the person carries on business.
 - (4) A document sent by ordinary mail, registered mail, electronic mail, fax or a communication method referred to in subsection (2) (i) is conclusively deemed to have been given on the date the document was sent.
 - (5) Despite subsection (4), if a notice of assessment is sent by ordinary mail, registered mail or electronic mail, the notice, for the purposes of this Act, is deemed to have been given on the date of that notice.
 - (6) For the purposes of this Act, the date of a notice given by the commissioner is the date stated on the notice.

Proof of compliance

- 90** In a prosecution or any proceeding for any matter arising under this Act, the facts necessary to establish compliance on the part of the commissioner with section 89 may be sufficiently proved in any court by the production of an affidavit of the commissioner setting out the facts.

Proof of receipt

- 91** (1) Proof of the receipt by a person of a document to which section 89 applies may be established in any court by showing that the document was given in accordance with that section.
- (2) A person seeking to establish that a document referred to in subsection (1) was not received by the person bears the burden of establishing that fact.

How and when documents are given by minister

- 92** If, under this Act, a document must or may be given by the minister to a person,
 - (a) the document may be given in accordance with section 89 (2), and
 - (b) if the document is given in accordance with that section, the document is conclusively deemed to have been given on the date of that document.

When payment is received

- 93** If, under this Act, an amount must or may be paid to the government, the amount is conclusively deemed to be paid on the date it is received by the government.

When documents are filed with or given to commissioner

- 94** If, under this Act, a document must or may be filed with or given to the commissioner, the document is conclusively deemed to be filed or given on the date it is received by the commissioner.

PART 8 – OFFENCES

General offences

- 95** A person who does any of the following commits an offence:
- (a) makes, or participates in, assents to or acquiesces in the making of, a false or deceptive statement in a tax return, notice or other record required to be filed or given under this Act;
 - (b) destroys, alters, mutilates, hides or otherwise disposes of a record to evade payment of an amount to be paid to the government under this Act;
 - (c) makes, or participates in, assents to or acquiesces in the making of, a false or deceptive entry in a record related to an amount to be paid to the government under this Act;
 - (d) omits, or participates in, assents to or acquiesces in the omission of, a material particular in a record required to be kept under this Act;
 - (e) makes or uses, or participates in, assents to or acquiesces in the making or use of, a record in a false or deceptive manner in order to obtain a tax benefit;
 - (f) wilfully, in any manner, evades or attempts to evade payment of tax payable;
 - (g) conspires with any person to do anything described in paragraphs (a) to (f).

Penalties

- 96** (1) An individual who commits an offence under section 95 is liable to
- (a) a fine of not less than 50% and not more than 200% of the amount of tax that was sought to be evaded,
 - (b) imprisonment for not more than 2 years, or
 - (c) both the fine and imprisonment referred to in paragraphs (a) and (b) of this subsection.
- (2) A corporation that commits an offence under section 95 is liable to a fine of not less than 50% and not more than 200% of the amount of tax that was sought to be evaded.

**Offences for failure to provide records or information
required by commissioner or for interference**

- 97 (1) A person commits an offence if the person contravenes any of the following provisions:
- (a) section 63 (3) (a), (b) or (c) [*production of records and answering questions at specified location*];
 - (b) section 63 (8) (a) or (b) [*interfering with inspection or audit*];
 - (c) section 64 [*requirement to provide records*];
 - (d) section 65 (3) [*demand for information*].
- (2) An individual who commits an offence under subsection (1) is liable to
- (a) a fine of not more than \$100 000,
 - (b) imprisonment for not more than 12 months, or
 - (c) both the fine and imprisonment referred to in paragraphs (a) and (b) of this subsection.
- (3) A corporation that commits an offence under subsection (1) is liable to a fine of not more than \$100 000.

Offences in relation to confidential information

- 98 (1) A person commits an offence if the person
- (a) contravenes section 87 (2) [*communication of information*], or
 - (b) knowingly contravenes an order made under section 87 (8).
- (2) A person commits an offence if
- (a) the person has been provided with confidential information for a particular purpose under section 87 (5) (a) to (e), (h), (i) or (k), and
 - (b) the person knowingly, for a purpose other than the purpose referred to in paragraph (a) of this subsection, uses the information, provides the information or allows the information to be provided to any person or allows any person to access the information.
- (3) An individual who commits an offence under subsection (1) or (2) is liable to
- (a) a fine of not more than \$5 000,
 - (b) imprisonment for not more than 12 months, or
 - (c) both the fine and imprisonment referred to in paragraphs (a) and (b) of this subsection.
- (4) A corporation that commits an offence under subsection (1) or (2) is liable to a fine of not more than \$5 000.

Offence by corporation

- 99** (1) If a corporation commits an offence under this Act, an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the offence also commits that offence, whether or not the corporation is prosecuted for the offence.
- (2) In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee, officer, director or agent of the defendant, whether or not the employee, officer, director or agent is identified or has been prosecuted for the offence.
- (3) Subsection (2) does not apply if the defendant establishes that the defendant exercised due diligence to prevent the commission of the offence.

Limitation period for prosecution

- 100** The time limit for laying an information for an offence under this Act is 6 years after the date when the act or omission that is alleged to constitute the offence occurred.

Section 5 of *Offence Act*

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

PART 9 – REGULATIONS

General regulation-making authority

- 102** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) respecting any matter for which regulations are contemplated by this Act;
 - (b) defining any word or expression used but not defined in this Act.
- (3) The authority to make regulations under another provision of this Act does not limit subsection (1) or (2).
- (4) In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:
- (a) delegate a matter to a person;
 - (b) confer a discretion on a person;
 - (c) make different regulations for
 - (i) different persons, places, circumstances, transactions, interests in property or other things, or

- (ii) different classes of persons, places, circumstances, transactions, interests in property or other things;
- (d) establish or define classes of persons, places, circumstances, transactions, interests in property or other things.

Regulations in relation to net taxable income and taxable income

- 103** (1) For the purposes of the definition of “commercial property” in section 1, the Lieutenant Governor in Council may make regulations establishing circumstances in which all or part of residential property comprising a taxable property is, or is not, primarily used for a commercial purpose.
- (2) For the purposes of determining an individual’s primary residence, the Lieutenant Governor in Council may make regulations establishing circumstances in which an individual is deemed to be residing in a place.

Regulations in relation to exemptions

- 104** The Lieutenant Governor in Council may make regulations doing one or more of the following:
- (a) exempting a person from
 - (i) a requirement to pay tax,
 - (ii) a requirement to file a return under section 31 [*tax return – taxpayer*], or
 - (iii) a requirement to file a return under section 32 [*tax return – person dealing with property or business of taxpayer*];
 - (b) exempting, in whole or in part, a residential property or a taxable transaction from tax;
 - (c) establishing circumstances in which an exemption applies;
 - (d) setting conditions of, or limitations on, the application of an exemption.

Regulations in relation to appeals

- 105** (1) The Lieutenant Governor in Council may make regulations as follows:
- (a) establishing rules governing the practice and procedure of the Supreme Court in an appeal under this Act;
 - (b) providing that a rule under the Supreme Court Civil Rules does not apply to an appeal under this Act;
 - (c) modifying a rule under the Supreme Court Civil Rules that applies to an appeal under this Act;
 - (d) adopting a rule under the Supreme Court Civil Rules that otherwise does not apply to an appeal under this Act and modifying that rule for the purposes of an appeal under this Act.

- (2) Without limiting subsection (1), in making a regulation under subsection (1), the Lieutenant Governor in Council may make any rule authorized by sections 1 and 2 of the *Court Rules Act*.
- (3) To the extent of any inconsistency or conflict between a regulation made under subsection (1) and the Supreme Court Civil Rules, the regulation made under subsection (1) prevails.

PART 10 – TRANSITIONAL PROVISION AND AMENDMENTS TO THIS ACT

Division 1 – Transitional Provision

Regulations in relation to transitional matters and difficulties

- 106** (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, in this Act;
 - (b) making provisions that the Lieutenant Governor in Council considers appropriate for the purpose of more effectively bringing this Act into operation;
 - (c) making provisions that the Lieutenant Governor in Council considers appropriate for the purpose of preventing, minimizing or otherwise addressing any difficulties encountered in bringing this Act into effect, including, without limitation, provisions making an exception to or a modification of a provision in this Act or another enactment or providing for the application of an enactment;
 - (d) resolving any errors, inconsistencies or ambiguities arising in this Act.
- (2) A regulation under subsection (1) may be made retroactive to a specified date that is not earlier than the date this section comes into force 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 this Act or another enactment, the regulation prevails.
- (4) This section and any regulations made under it are repealed on January 1, 2028.

Division 2 – Amendments to This Act

107 *The title of this Act is repealed and the following substituted:*

RESIDENTIAL PROPERTY (SHORT-TERM HOLDING) PROFIT TAX ACT .

108 Section 70 (2) is repealed and the following substituted:

- (2) Subject to this section and the regulations, the Supreme Court Civil Rules relating to petition proceedings apply to appeals under this section.
- (2.1) Rule 18-3 [*Appeals*] of the Supreme Court Civil Rules does not apply to appeals under this section.

PART 11 – CONSEQUENTIAL AMENDMENT

Special Accounts Appropriation and Control Act

109 Section 9.7 (2) of the *Special Accounts Appropriation and Control Act, R.S.B.C. 1996, c. 436, is amended by adding the following paragraph:*

- (d.2) amounts received by the government under the *Residential Property (Short-Term Holding) Profit Tax Act*; .

Commencement

- 110** 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	Sections 1 to 104	January 1, 2025
2	Section 105	By regulation of the Lieutenant Governor in Council
3	Sections 106 and 107	January 1, 2025
4	Section 108	By regulation of the Lieutenant Governor in Council
5	Section 109	January 1, 2025