

PST ON IN-KIND DONATIONS

Opening Statement

Under the Provincial Sales Tax Act, charitable giving of in-kind donations is discouraged by onerous tax implications on the donor. A business providing an in-kind donation, is subject to a 7% PST Tax on the value of the donation, which is inequitable relative to the treatment of cash donations.

Background

Provincial Sales Tax (PST) is defined by the government as a “retail sales tax that applies when a taxable good or service is purchased, acquired or brought into B.C., unless a specific exemption applies.”

In-kind donations are taxable according to the Provincial Sales Tax Act, and thusly, PST must be collected on goods, or a portion of the goods given away by a donor. There is presently no exemption for in-kind donations under the Act. The exception to this, is where goods being given away are non-marketable waste by-products of processing or fabrication processes that would otherwise be disposed of without further use (e.g. thrown away or burned for a purpose other than energy).

It is unclear who is responsible for deciding what is considered a non-marketable waste by-product under the Act. In-kind donations are not considered to be non-marketable waste by-products. Currently, there is ambiguity regarding whether or not the donor is responsible for PST remittance on donations. . These uncertainties weigh heavily on businesses. If businesses don't apply the law properly and repay the 7% tax, they open themselves up to vulnerability related to the potential for financial penalty, tax audits, and unintended non-compliance with law.

The Mission Regional Chamber of Commerce cites an ongoing case, where-by a member of the Chamber - Wilderness Tree Farm - has made numerous donations of materials to the Mission School District and Correctional Services, so that students and inmates were able to construct handicapped accessible picnic tables for students in wheelchairs. The products, a high-end fir lumber, were donated to the School District & Matsqui Institution, which had a cost savings of \$8,000 to the District. In order to receive a receipt for the donation, the Member was required to pay PST on the cost of donated materials. If the business had claimed the materials- to have come from his property as remnants, he would have avoided the tax implications, but would not qualify for a tax receipt. There is presently no method for businesses donating to school districts, charities and health districts etc. to waiver or declare their status to allow for exemption thus giving business less incentive to donate in-kind to their communities.

Requirements on in-kind donations under the PST Act are not clearly communicated. Once a business is made aware of their tax implications, the result could mean a reduction in charitable in-kind giving due to the punitive nature of the law. Placing a tax on in-kind donations not only reduces useful charitable giving, it is ultimately inequitable as there is no tax on cash donations.

It would be far more equitable if the PST Act exempted donations to not-for-profit, charitable, and NGO organizations that provide services to communities in BC. If the government doesn't want to provide a full removal of PST on in-kind donations, then at least provide an exemption for circumstances that they find appropriate.

In addition, greater clarity must be given by the Provincial government on the requirements of business with regards to in-kind donations, as well as who is responsible to make the final determination of 'non-taxable waste by-product' under The Act.

THE CHAMBER RECOMMENDS

That the Provincial Government:

1. Amend the Provincial Sales Tax Act to exempt in-kind donations to not-for-profit, NGO and Charitable organizations that serve BC Communities.

Submitted by the Mission Regional Chamber of Commerce.