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The Honourable Michael de Jong, Minister of Finance
British Columbia Ministry of Finance
P.O. Box 9048 Stn Prov Govt
Victoria, BC V8W 9E2

Re: Delay in Releasing Required PST Information

Dear Mr de Jong:

Last year residents of British Columbia (BC) approved a referendum to repeal the Harmonized Sales Tax (HST) and reinstate the Provincial Sales Tax (PST). Royal assent was given to the *Provincial Sales Tax Act* (PST Act) on May 31, 2012, with a re-implementation date of April 1, 2013. On January 10, 2013, Tax Executives Institute (hereinafter TEI or the Institute) submitted a letter to Jordan Goss of your Ministry, commenting on the administrative aspects of the PST Act and more specifically on the guidance included in PST Bulletin 002, *Charging, Collecting and Remitting PST* (October 2012). We appreciate the response provided by the Ministry on January 30, 2013. Still, the Regulations containing critical rules necessary for businesses applying the PST were not issued until March 1, 2013. This letter describes the significant adverse effects for businesses in Canada resulting from the delays associated with the release of crucial PST information. TEI urges the Ministry to adopt a formal policy of administrative tolerance to mitigate the imposition of unwarranted penalties.

TEI is the preeminent association of in-house tax professionals worldwide. The Institute's 7,000 professionals manage the tax affairs of 3,000 of the leading companies across all industry sectors in North America, Europe, and Asia. Canadians constitute ten percent of TEI's membership, with our Canadian members belonging to chapters in Calgary, Montreal, Toronto, and Vancouver, and they must contend daily with the planning and compliance aspects of Canada's business tax laws. Many of our non-Canadian members work for companies with substantial activities in British Columbia and Canada generally. The comments set forth in this letter reflect the views of the Institute as a whole, but more particularly those of our Canadian constituency.

I. Lengthy Delays and Resulting Consequences for Businesses

The BC Government's press release in May 2012 stated:

Over the coming months, further work on regulations to fully establish the exemptions will continue and will consider the input received from business to ensure clarity. Additional consequential and transitional amendments will also be required before April 1, 2013. The Province intends to publically release a final proposed version of the legislation as early as this fall to support business outreach and awareness.

There are many fundamental aspects of the application of the PST that are not covered by the implementing statute and that had to be provided through Regulations. For businesses in Canada, it was critical that the Regulations be made available within the timetable noted above (Fall 2012) in either draft or final form. The absence of important PST guidance until only one month before the re-implementation date will result in some misapplication of the tax despite best efforts to comply. Businesses simply will not have enough time to modify their systems to adapt to the new rules before the re-implementation date. Indeed, TEI members have invested significant resources to prepare for the reintroduction of the PST, but there are some components of implementation tasks that could not be finalized until the BC Government provided the Regulations addressing issues such as specific exemptions from the tax.

We acknowledge that the BC Government has established a PST Outreach Program whereby representatives will visit businesses (upon their request) and provide some re-implementation assistance, but this service is limited to providing advice on whether a business should register to collect the PST. There is uncertainty regarding whether this program will be expanded after April 1, 2013. Also, with only a month between the release of the Regulations and the re-implementation date, we question the ability of the Outreach Program to offer meaningful assistance for complex businesses in the short term.

The late release of the Regulations and amended PST Act will inhibit the ability of businesses to accurately determine their tax obligations. There simply will not be enough time to make the required systems changes and develop and deliver staff training by April 1, 2013. The tax logic component of sophisticated financial systems used by large businesses is highly complex and there is no longer enough time in advance of the re-implementation date to modify the program code, test the proposed solutions, analyze the test results, and make further refinements based on the test results. While necessary system changes are complex and demand attention, there is an important human component, as well. The education of front-line staff who interact with customers and vendors is also imperative for businesses to properly collect and remit the PST.

The delay in the releasing the Regulations has created significant doubt regarding the application of the PST that may also lead to a competitive disadvantage to some businesses – *i.e.*, some businesses no matter the extent of their efforts will take longer than other businesses to

implement the changes necessary to account for the PST. Each transaction, then, creates a possibility for inequitable application of the PST since companies will move at different paces in their re-implementation efforts.

II. A Fair Application

TEI urges the BC Government to formally announce a leniency program with respect to the re-implementation of the PST. The delays in providing crucial PST guidance have precluded businesses (which act, in effect, as the tax administrator for the PST) from developing their systems to accommodate the April 1, 2013, effective date. The leniency program should direct the Ministry's Consumer Taxation Audit Branch to conduct audit reviews of transactions for the period April 1, 2013 to March 31, 2014 (the "Transition Period") for informational purposes only, except to confirm that all amounts collected by a business as or on account of PST are remitted to the Ministry. Further, we ask that the Minister include in the program specific guidance providing relief of any penalties and interest during the Transition Period.

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TEI would be pleased to meet with Ministry representatives to discuss these comments and other PST administration issues to ensure that the system treats registrants in the most equitable fashion possible, particularly with respect to the re-implementation of the PST.

TEI's comments were prepared under the aegis of the Institute's Canadian Commodity Tax Committee, whose chair is Robert Smith. Should you have any questions about our recommendations, please do not hesitate to call Mr. Smith at 514.832.8198 (or Robert.Smith@mckesson.ca) or Kim N. Berjian, TEI's Vice President for Canadian Affairs, at 403.233.5480 (or Kim.N.Berjian@conocophillips.com).

Respectfully submitted,

Tax Executives Institute



Carita R. Twinem
International President

cc: **Peter Milburn**, Deputy Minister Finance and Secretary to Treasury Board
Lisa Freeman, Executive Assistant to Deputy Minister Finance
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