



# Resource Municipalities **COALITION**

Responsible resource development sustains communities by addressing impacts on ecosystems as well as cumulative impacts to a healthy natural environment and to citizens by ensuring the provision of effective social services that improve the quality of life while building a sustainable future.

## Select Standing Committee on Financial and Government Services

Budget 2019 Consultation

Submission

The following submission to the Select Standing Committee on Financial and Governments Services – Budget 2019 Consultation is submitted by:

### Resource Municipalities Coalition

10631 – 100<sup>th</sup> Street  
Fort St John, BC  
ed@rmcoalition.com

The Resource Municipalities Coalition (Coalition) provides information for consideration in the development of the 2019 Budget. The Coalition supports a budget that improves the quality of life for British Columbians while providing a strong, sustainable economy.

## The Resource Municipalities Coalition



- ❖ The Resource Municipalities Coalition (Coalition) is an organization of municipalities, businesses and service sectors of northern British Columbia that are focused on responsible resource development within British Columbia.
- ❖ The Coalition provides a unified voice for local governments, businesses and communities within British Columbia.
- ❖ The Coalition is a regionally based organization that provides research-based data supporting responsible resource development.

## The Mission of the Coalition

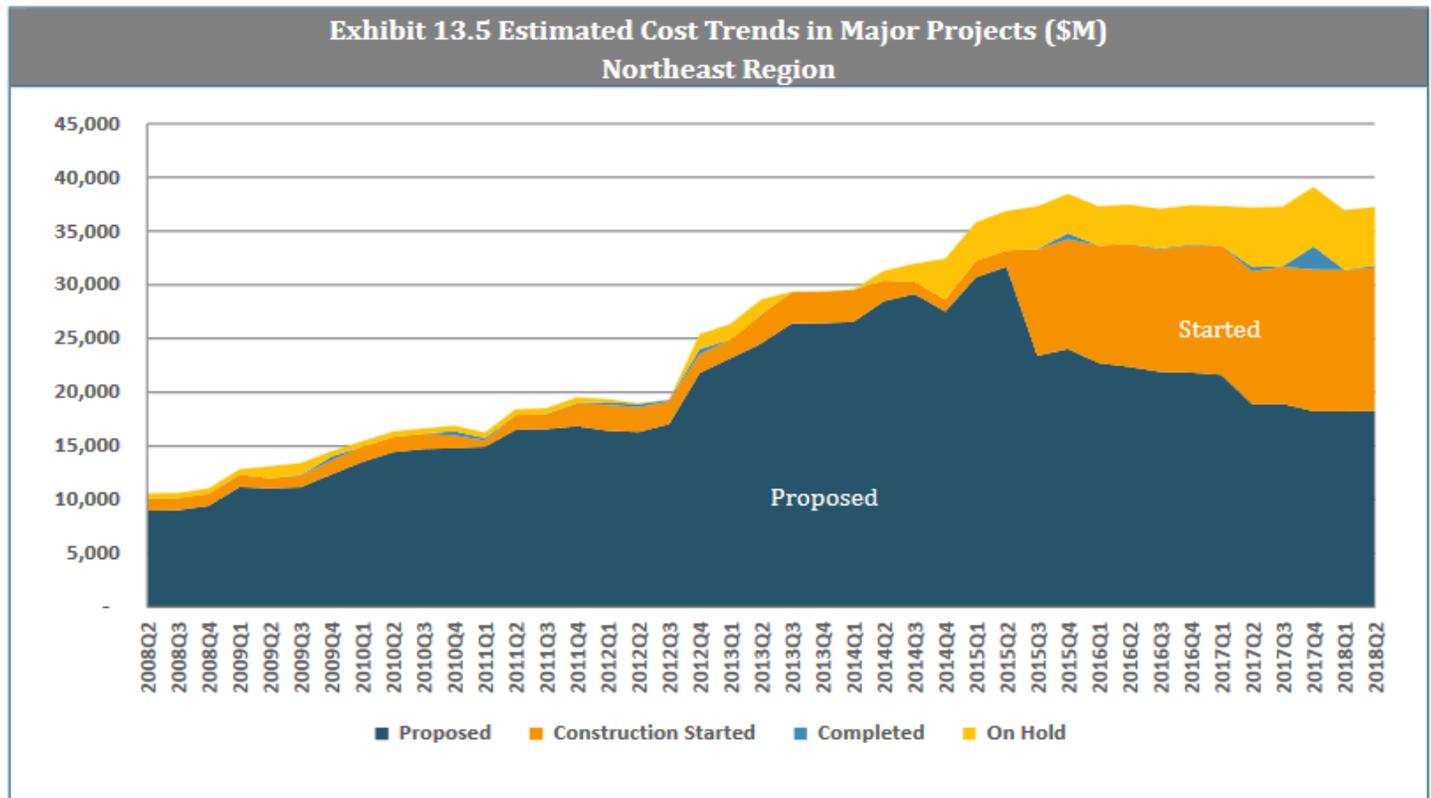
The Resource Municipalities Coalition will promote responsible resource development to ensure it sustains communities by addressing impacts on ecosystems as well as cumulative impacts to a healthy natural environment and to citizens by ensuring the provision of effective social services that improve quality of life while building a sustainable future.

## Ministry of Transportation

The Ministry of Transportation and Infrastructure responsibility is to lead planning initiatives to address infrastructure needs of rural and urban British Columbia under the government’s comprehensive infrastructure plan to build a Better BC. Geographically remote areas of the province face unique challenges in improving the quality of life for constituents, in that in some cases the only economical means of transport of their products and services are by way of the provincial transportation network of roads and railways.

### Challenges of Northern Communities

Communities in the north, often are faced with one major corridor of transportation that is negatively impacted by infrastructure age, increased activity and natural elements such as weather. The cumulative impacts provide further risk to users and continue to degrade the usable life of the infrastructure despite aggressive maintenance programs and risk mitigation strategies. Roadways and bridges are the backbone of moving people and product to market in northern communities, with reduced infrastructure spending, the ability to provide a safe quality of life and improve industries competitiveness diminish.



- In Q2 2018, the Northeast region has a total of 54 major projects with a combined value of \$37 B, representing a 0.8 percent increase over the previous quarter and a 0.1 percent increase compared to one year earlier.
- Two projects added to the MPI in this quarter: Highway 97 Bridge Replacements (\$27 M) and North East Elementary School (\$31 M).
- W.A.C. Bennett Dam Riprap Upgrade Project (\$170 M) has been completed in this quarter.

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## Impact of Increased Activity

Traffic load (weight and quantity) has been identified as being the primary cause of fatigue cracking of asphalt - asphalt thickness and subgrade structure also have significant impacts on the usable life of a roadway. An uncontrolled factor that negatively impacts the usable life of a roadway is the freeze-thaw cycle that occurs. Freeze thaw cycles within northern BC on roadways with fatigue cracking is a factor in pavement shifting and slope sluffing for routes like the South Taylor hill.

Increased industrial activity is anticipated with 54 major projects<sup>1</sup> in Northeast BC – \$30+ billion worth of investment – this activity realizes the need for larger, heavier trucks and increased frequency of these trucks on northern roadways, escalates existing hazards identified by municipal and provincial governments for years – slow response or lack of funding to correct these concerns reduces the quality of life for BC residents of the north and creates unnecessary obstacles for industry.

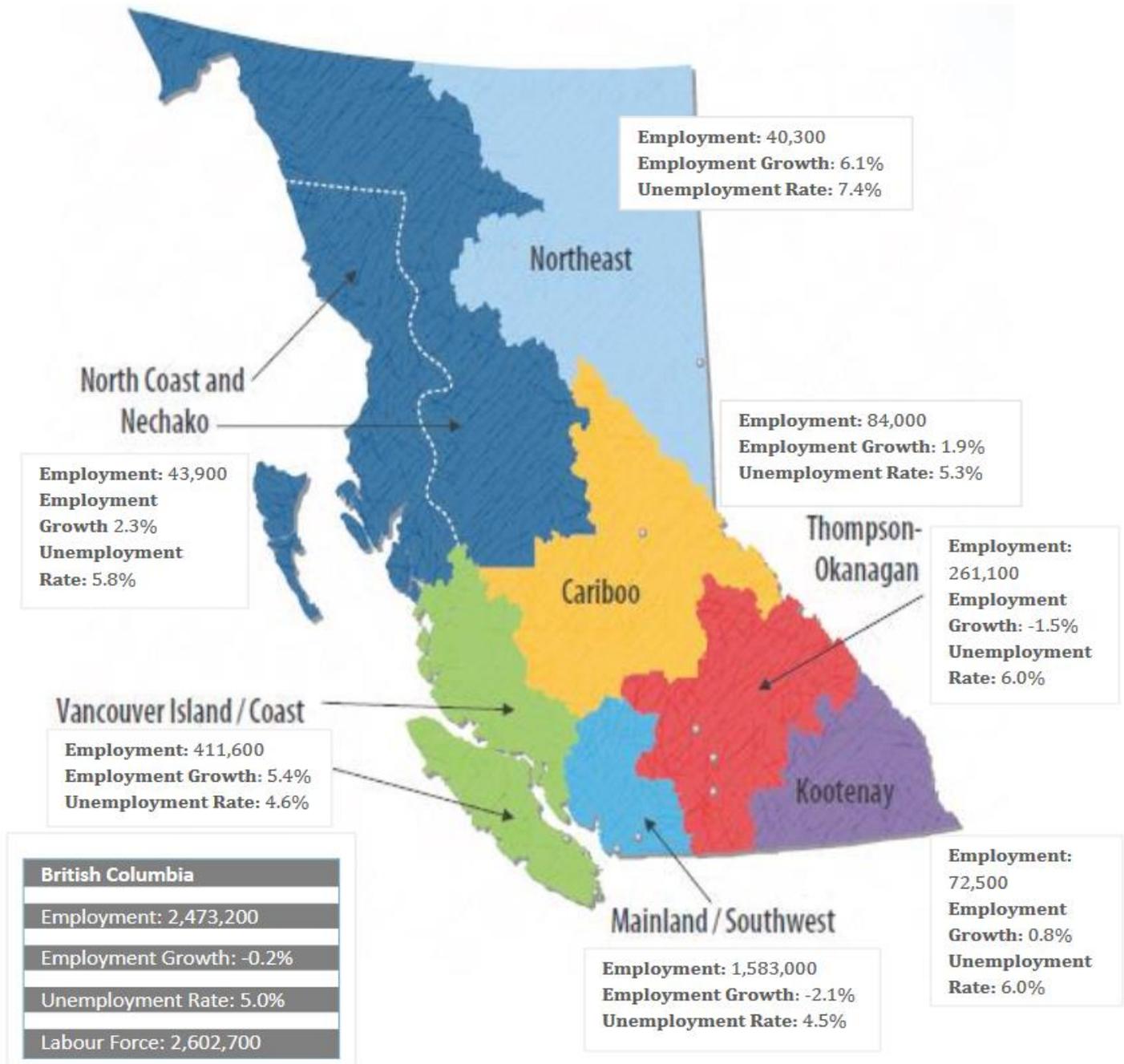
Funding commitments to complete projects like Highway 97 – South Taylor Hill are recommended as data collected from monitors on the South Taylor Hill, published by the Ministry of Transportation, indicates a 9.3% increase in traffic within the last 7 years. Recent non-audited monitoring has indicated that since the last MOT data collection date, there has been a further 3%<sup>2</sup> increase. Recognizing recent Final Investment Decisions in the provinces Natural Gas sector, this number is sure to increase significantly in the coming years. Likewise, the condition of the Taylor bridge requires immediate investment for replacement, currently a second-hand bridge with an average \$500K + annual investment in repairs, the bridge is quickly coming to the end of its useable life.

An investment into key infrastructure components such as the South Taylor Hill and the Taylor bridge work to improve the economic competitiveness of the north while improving the quality of life to residence by providing safe reliable transportation routes.

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<sup>1</sup> BC Major Projects Inventory Q2 2018 report

<sup>2</sup> Manual Traffic count September 27, 2018 – Base of South Taylor hill



With employment growth at a rate of 6.1%<sup>3</sup> within the last 12 months and forecasted to increase with the recent LNG Canada – TransCanada Coastal GasLink Pipeline announcements - the demand for construction and maintenance services, food services, accommodations and access to those services will increase accordingly and the Coalition encourages the Ministry of Transportation and Infrastructure to play a leading role in providing safe and reliable transportation routes throughout northern BC.

## Ministry of Health

The delivery of health care in rural or geographically remote communities within northern British Columbia has long been challenged with concerns in distance, low user densities, lack of facilities and caregiver shortages, resulting in rural and geographically remote communities struggling with health care delivery. For rural and geographically remote communities engaged within the resource sector, population aging and industrial structure further present significant challenges for the provision of effective health care.

In understanding the impacts on health care, it is important to recognize the social implications associated to health concerns surrounding mental health and well-being, social determinants of health and culture and community cohesion. As industry engages with resource development, communities are left to further mitigate the impacts of rotational work schedules on families, foreign workers adjusting to cultural differences and skill shortages, affecting the quality of life for British Columbians.

The Coalition encourages the Ministry of Health to uphold its overall responsibility for ensuring that quality, appropriate, cost effective and timely health services are available for all British Columbians while being mindful of the provinces three key commitments of:

- To make life more affordable,
- To deliver the services people count on, and
- To build a strong, sustainable, innovative economy that works for everyone.

In a recent report<sup>4</sup> from the Auditor General of British Columbia, *“Not having enough RNs and NPs means patient needs may go unmet, and they may have to wait longer for care. Working long hours to cover vacant shifts increases the risk of medical error and can lead to burnout, illness and injury. And backfilling shifts at overtime rates or with agency nurses is more expensive.”* Carol Bellringer, FCPA, FCA..

This statement is further supported by data prepared in a Socio-Economic Indices report by BC Stats in 2012 “Overall Regional Socio-Economic Index” that indicates northern communities make up 38% of the worse-off local health areas of British Columbia.

The challenges of recruitment and retention in northern BC is impacted further by weather, isolation, limited amenities and in some cases, the cost and availability of housing. This impact has resulted in, based on 2017 stats, staffing shortages of 121 or 15%<sup>4</sup> of the total full-time positions available in North Eastern British Columbia – diminishing the services that residents of northern British Columbia receive.

Resource development within north east British Columbia will increase with recent investment decisions from LNG Canada and TransCanada Coastal GasLink Pipeline projects. The impacts to this region will revolve around the research and development of natural gas finds, construction of pipelines, transportation services, maintenance facilities and accommodations needs. Forecasted workforce requirements associated to pipeline construction alone is 2,500 workers<sup>5</sup>., impacting the health care delivery within northern BC.

In reviewing the Auditor General's report, An Independent Audit of the Recruitment and Retention of Rural and Remote Nurses in Northern BC, the Coalition supports the recommendation as they – ensure the provision of effective social services that improve quality of life while building a sustainable future, lending well to the provincial governments third key commitment.

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4 An Independent Audit of the Recruitment and Retention of Rural and Remote Nurses in Northern BC

5 Operational Overview – TransCanada Coastal Gaslink

## Ministry of Finance

British Columbia based oil and gas service companies, contractors and suppliers are experiencing difficulty competing with companies based in Alberta and other provinces. This is due, in large part, to non-resident companies failing to comply with BC tax laws for the payment of the provincial sales tax (PST). The major concern relates to Alberta based companies because of their proximity to British Columbia and the close business relationship between Alberta.

The inability of BC businesses to compete fairly is having negative consequences. Reduced business activity and revenue have led to reduced investment, declining employment and an unstable business climate. The provincial government is also forgoing economic and financial benefits due to reduced employment and tax revenue.

The Coalition believes amendments to the BC PST Act, increased efforts to raise awareness of BC's tax requirements and increased monitoring and enforcement would reduce the incidence of non-compliance. The Saskatchewan model provides an excellent example of how the BC system can be improved.

The Coalition recognizes that the tax regimes of the two provinces are different and that in Alberta companies may enjoy an overall tax advantage. The Coalition also supports the removal of barriers to inter-provincial trade, investment and labour mobility and does not oppose competition from non-resident companies. It is the contention of the Coalition that non-resident companies' failure to comply with BC tax law is a major issue in the ability of BC companies to compete fairly.

### The Importance of Requiring Non-Residents Companies to Pay the Provincial Sales Tax

Under the provisions of the BC Provincial Sales Tax Act, S.BC 2012, c. 35 ("PST Act"), all persons are required to pay PST<sup>1</sup> in respect of non-exempt tangible personal property (TPP) that is sold or leased in BC (PST Act ss. 37, 39) or brought into BC and used or consumed whether under lease (PST Act s. 41) or otherwise (PST Act s. 49).<sup>2</sup>

The obligation to pay PST applies to persons in BC whether they are a BC resident or a person or entity resident outside BC who is using or consuming the TPP in BC in the course of the person's business, whether or not the business is carried on in BC<sup>3</sup>.

Reporting of PST payable by persons other than collectors<sup>4</sup> is on a self-reporting basis. Non-resident businesses may be unaware on the PST obligations associated with conducting business activities in BC, or simply choose not to comply with reporting and payment obligations. This creates a less than level "playing field" because non-resident companies:

- Do not bear administrative costs of reporting and paying tax in BC;
- Do pay taxes to which BC residents are equally subject;
- Would only be subject to prevailing taxes in their home jurisdiction which in the case of Alberta would include no provincial sales tax rather than 7% PST in BC, in addition to the 5% GST payable in both provinces; and

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<sup>1</sup> The acronym PST for both BC and Saskatchewan provincial sales tax.

<sup>2</sup> TPP that is in BC fewer than 6 days is not subject to taxation under s. 49 of the PST Act (s. 53 and PST Regulation s. 17).

<sup>3</sup> Section 5 of the PST Act defines "carrying on business" in the province based on factors including whether a person's name is advertised or in a telephone directory with a BC telephone number or address or has employees, representatives, warehouse, office or place of business in BC. Specific provisions apply to non-residents carrying on business in BC. The obligation to pay PST exists if TPP is used or consumed in BC in the course of the person's business regardless of whether the person is technically "carrying on business" in BC.

<sup>4</sup> Collectors are entities registered under the PST Act or otherwise obligated to collect PST in connection with commercial transactions as an agent of the Crown (PST Act s. 178).

- Have the benefit of doing business in a BC economy supported and regulated at the cost of the BC taxpayer, without contributing to the payment of those costs (such as road and other infrastructure)

In addition to the apparent unfairness of an unequal tax treatment, the non-payment of PST by many non-residents creates an incentive for BC residents to avoid BC taxes or consider relocating to Alberta so that they can also enjoy the advantage of non-residents.

The implications of PST non-payment adversely impact the BC economies in a number of ways:

- Employment of BC workers is lower
- Local, regional and provincial economic benefits are reduced
- Local and provincial government revenues are reduced
- Non-resident businesses impose a cost on BC making a much lower (if not zero) financial contribution compared to BC businesses
- The non-payment of PST by non-resident business results in a direct revenue loss to the provincial government.

The focus of the Coalition is to promote a "level playing field" where BC businesses are not at a competitive disadvantage in their own province.

## The PST Problem in More Detail

Data for determining the extent to which non-resident companies are non-compliant with BC's PST requirements is not available due to:

- Reliance on self-assessment and reporting for the payment of BC's PST; and
- Tax information provided to the Ministry of Finance is confidential.

The information provided by BC companies competing for contracts with Alberta companies cannot be dismissed. The reports confirm that non-compliant Alberta companies is a result of two causes:

- Willful avoidance in paying the BC PST by Alberta based companies to gain an advantage in a highly competitive market.
- Failure to understand and comply with the complex requirements and procedures for payment of the BC PST.

BC PST legislation does not require the payment of the PST on some services that may be provided in Alberta but which have an impact on the ability of BC companies to compete fairly with Alberta companies. Examples include:

- PST is not payable on certain types of equipment (e.g. safety equipment, radios) that is installed in vehicles in Alberta. While the vehicle is subject to the PST, equipment itself is not.
- PST is not payable on major repairs undertaken in Alberta to equipment that operate in BC

There is also evidence that companies with offices in both provinces take advantage of their Alberta-based operations to avoid payment of the PST on major repairs, refitting and other maintenance carried out on equipment working in BC

There is a need to provide the legislative, regulatory and policy basis to strengthen the ability of the Ministry of Finance to monitor and enforce compliance.

A comparison of the PST legislation in BC and Saskatchewan provides an indication of how BC PST legislation could be strengthened.

## Differences between the Approaches of BC & Saskatchewan in Dealing with Companies based in other Provinces

BC and Saskatchewan are similarly positioned to the large oil and gas industry in Alberta and both provinces have similar challenges in the application of their provincial sales tax regimes

Under both the PST Act and the Saskatchewan Provincial Sales Tax Act, R.R.S. 1978, c. P-34.1 (SK. PST Act) there is an obligation on non-resident businesses to report and pay PST. Saskatchewan has responded to challenges by implementing administrative provisions related to reporting and security for payment of PST.

Sections 9 (general) and 9.1 (temporary) set out the provisions related to the reporting of TPP brought into Saskatchewan. Section 9.1 provides as follows for TPP brought into Saskatchewan temporarily for the purposes set out in s. 9<sup>5</sup>:

- " (9.1) Every person residing or ordinarily resident or carrying on business in Saskatchewan who, on a temporary basis, brings into Saskatchewan or receives delivery in Saskatchewan of tangible personal property for a purpose or in a capacity described in subsection (9) shall:
- (a) immediately report the matter to the minister or the minister's appointee;
  - (b) forward or produce to the minister the invoice, if any, with respect to the property and any other information required by the minister with respect to the property; and
  - (c) pay tax with respect to the consumption or use of the proportionate part of that property, determined in the manner prescribed in the regulations, that is attributable to its consumption or use within Saskatchewan, at the rate that would be applicable if the property had been purchased at retail in Saskatchewan. "

In addition, the Saskatchewan PST regime requires non-resident contractors who operate in the petroleum industry to:

- register with the Revenue Division to file returns and to report PST (Saskatchewan Tax Bulletin PST-13 (SK TB PST-13) section A);
- deposit with the minister or post a Guarantee Bond of 5% of the total contract amount to secure payment of the tax imposed by the SK PST Act in respect of TPP consumed or used pursuant to or in carrying out the contract (SK PST Act, s. 29(1)); and
- obtain a clearance letter from Revenue Division upon completion of their contracts in the province (SK TB PST-13, PST-38 section G(c))

The company is responsible for the payment of PST owing in the event that the contractor fails to do so (SK PST Act, s. 29(2)). It is standard practice for contracts to have a holdback of 5% which the contracting party will then release to the contractor once the clearance letter issued by Revenue Division is received.

A comparison of the key provisions relating to non-resident (Alberta) companies' obligations under BC and Saskatchewan PST regimes is set out in Table 1.

Adoption of provisions B-E in Table 1 from the Saskatchewan PST regime would provide much enhanced rigour that should cause non-resident businesses to comply more fully with the intent of ss. 41 and 49 of the PST Act and restore some levelling in the playing field between BC and Alberta companies operating in BC<sup>6</sup>

<sup>5</sup> " for his own consumption or use, or for the consumption or use of other persons at his expense, or on behalf of or as agent for a principal who desires to acquire the property for consumption or use by the principal or other persons at his expense

<sup>6</sup> Ministry of Finance legal counsel can be counted on to ensure that no issues arise in drafting legislation, regulation or policy in regard to trade agreements and treatment of trading partner entities.

**Table 1 - Comparison of Provisions of British Columbia and Saskatchewan Related to Taxation of Taxable Tangible Personal Property brought into the province by Alberta Companies**

	<b>British Columbia</b>	<b>Saskatchewan</b>
A. Obligation of AB companies to pay PST on TPP brought into the province	<b>Yes</b> PST Act ss. 39, 41 for leased TPP PST Act s. 49 for unleased TPP	<b>Yes</b> SK PST Act s. 5 (9) and (9.1)
B. Required to register with Revenue Division to file returns and to report PST	<b>No</b> May register, but focused on collectors of PST	<b>Yes</b> SK TB PST-13
C. Required to deposit with the minister or post a guarantee bond of 5% of the total contract amount	<b>No</b> Would be 7% in BC	<b>Yes</b> SK PST Act s. 29(1) SK TB PST-13
D. Required to obtain a clearance letter upon completion of contracts in the province	<b>No</b>	<b>Yes</b> SK TB PST-13, PST-38
E. Contracting party to assume responsibility for payment of PST if non-resident company fails to pay	<b>No</b>	<b>Yes</b> SK PST Act s. 29(2)

**Notes**  
(1) PST Act = Provincial Sales Tax Act, S.BC 2012, c. 35.  
(2) SK PST Act = The Provincial Sales Tax Act, R.R.S. 1978, c. P-34.1.  
(3) SK TB denotes a specific Saskatchewan tax bulletin.

## General Principles and Criteria Used in Identifying Solutions

The solution to the problem must consider the principles and criteria which have been established not only by the government of British Columbia but also in various agreements that have been negotiated between the government of BC and other provincial governments. While the inter-provincial agreements address only the procurement of goods and services by governments and government agencies, they also provide some guidance to the objectives of the provincial governments on inter-provincial trade, investment and labour mobility in general. The principles established in the following agreements and documents might be appropriate in the evaluation of solutions to address the non-compliance of non-resident firms to BC's PST requirements.

- Various inter-provincial agreements including; the New West Partnership Trade Agreement, between the provinces of BC, Alberta and Saskatchewan which came in effect in 2010; and, the Trade, Investment and Labour Mobility Agreement between the BC and Alberta that came into effect in 1995.
- The B.C Government's terms of reference for the Commission on Tax Competitiveness established in 2016.

The trade agreements embody key principles such as; enhancing competitiveness, economic growth and stability; eliminating barriers that restrict or impair trade, investment or labour mobility; and, increasing opportunities and choice for workers, investors, consumers and businesses. While the agreements deal with procurement by governments and government agencies, they are also relevant as broad principles for procurement by private companies. The Coalition fully supports the objectives established in the trade agreements as well as the principles embodied in them not only as they relate to public sector procurement but also procurement by private companies. The Coalition fully supports increasing competitiveness, reduction in trade barriers and increasing opportunities and choice for individuals and businesses.

While the trade agreements promote inter-provincial trade, investment and procurement, they also point to the need for provincial governments to recognize the need and reconcile differences in their standards and regulations which impact fair competition.

The recently established Commission on Tax Competitiveness is addressing the reform of the PST in detail and is evaluating options for reform based on a number of criteria including:

- competitiveness of BC businesses;
- business investment;
- economic growth;
- tax policy principles;
- impact on provincial government revenues; and
- impact on British Columbians in general.

The Coalition interprets the principles set out in inter-provincial trade agreements and in recently prepared terms of reference for the reform of the PST as follows:

- While the provincial government aims to reduce barriers to inter-provincial trade, investment and labour mobility to increase competitiveness and economic growth; it also intends to ensure BC based businesses remain competitive and increase overall economic growth and employment opportunities in the province.
- The provincial government objective is to ensure options for the reform of the PST reflect important tax policy principles. Commonly held principles include equity and fairness, simplicity, certainty, transparency, neutrality, stability and the ability to produce required government revenues.

It is the objective of the provincial government to ensure that non-resident businesses comply with the laws of the Province in the payment of the PST to ensure equitable and fair treatment of all businesses in BC

## Recommendations

The following recommendations are consistent with understanding of current issues related to the payment of the PST by non-resident companies and the principles that are relevant to the development of solutions.

### 1 – Increase Level of Monitoring and Enforcement of BC Tax Laws

Increase the level of monitoring and enforcement of BC tax laws as they relate to the payment of the PST by non-resident companies working in BC Specifically:

- Increase Ministry of Finance staff resources, particularly field staff in Northeast BC, to increase the level of monitoring and auditing of non-resident companies.
- Establish policies and procedures to coordinate enforcement of PST laws and regulations between the Ministry of Finance, the BC Oil and Gas Commission, the RCMP, WorkSafe BC and the Ministry of Transportation and Infrastructure.
- Establish a formal process to enable citizens and BC based companies to report cases of non-compliance.

## 2 - Implement Public Awareness Program

Develop and implement a tax public awareness program for non-resident companies working in BC

## 3 - Establish a Process to Enable the Public to Access Non-Confidential Information

Implement a public reporting regarding payment of the PST by non-resident companies including identification of non-resident companies that have been fined for non-payment of the PST.

## 4 – Review and Amend Existing Legislation and Regulations to Enhance the Ability of the Ministry of Finance to Monitor and Enforce the Payment of the PST by Non-Resident Companies

Amend the BC PST Act, regulations and policy to enhance the ability of the BC Ministry of Finance to monitor and enforce the Provincial Sales Tax Act. Specifically, implement similar measures to those enacted by the Province of Saskatchewan:

- Require non-resident companies to register with the Ministry of Finance in order to file returns and report the PST.
- Require non-resident companies to make a guarantee bond of 7% of the total contract amount to secure payment of the PST with the Ministry of Finance.
- Require non-resident companies to obtain a clearance letter from the Ministry of Finance upon completion of the contracts in BC
- Require contracting parties to assume liability for payment of the PST where the non-resident company fails to comply with the PST Act.

## Impacts of the Recommended Changes

### Revenue Impacts

Adopting the recommendations will have a positive impact on the amount of revenue collected by government through:

- direct government revenue from increased PST payments by non-resident companies;
- local and provincial government revenue from indirect employment and spending of BC business as the comparative advantage of non-resident businesses is reduced and BC
- reduced incentive for BC businesses not to comply with PST reporting or payment as non-resident companies comply more fully; and
- reduced incentive for BC businesses to re-locate to Alberta to address their disadvantage.

### Ease and cost of administration

Adopting changes in the BC PST regime to encourage non-resident companies to comply with the provisions of ss. 41 and 49 (payment of PST for non-exempt TPP brought into and used or consumed in BC) will increase administration of the PST system to:

- design and distribute reporting materials (distributed and submitted electronically);
- communicate with taxpayers to ensure correct provision of information and payments;
- receive, process and release security deposits and guarantee bonds (involve Provincial Treasury or Cash Management services);
- process returns and payments; and
- spot audit returns and resolve resulting compliance issues.

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The Coalition welcomes competition from non-resident companies provided that such companies comply with the laws and regulations of the Province in all respects including the payment of the PST. It is the Coalition's expectation that the provincial government will ensure that its policies, procedures and regulations respecting the payment of the PST are sufficient, effective and clear in promoting compliance by non-resident companies. Finally, it is the expectation of the Coalition that sufficient resources will be deployed by the provincial government to enforce its laws and regulations.