

## ELIMINATION OF 7% PST ON LEGAL FEES (2017)

In 1992, with the claim that the funds would be utilized to fund legal aid, Finance Minister Glen Clark of the NDP introduced a retail sales tax, now levied pursuant to sections 126 to 127 of the *Provincial Sales Tax Act* of B.C. (formerly, the *Social Service Tax* of B.C.), both as amended from time to time (“PST”) at the rate of 7% of the purchase price of any legal services provided in B.C. or to a B.C. resident. With the sole exception of legal aid, PST applies to all legal services provided to individuals and businesses.

The 7% cost is paid by the end user client: not the lawyer. PST applies regardless of the practice of law, including legal fees paid for matrimonial matters such as child custody, spousal support, separation, and divorce, personal injury awards, wills and estates, civil litigation, immigration, criminal law, residential and commercial real estate conveyancing, and all business and corporate/commercial matters. In particular, PST on legal fees is a burden to all small businesses in B.C. who pay for annual corporate maintenance and related transactional matters with no corresponding input tax credit for such business expenses. In the case of family law, poverty law, and criminal law, the 7% additional expense in B.C. may be a barrier to access to justice for impecunious clients who simply cannot afford their “day in court”.<sup>1</sup>

- **Fairness.** PST is charged at the rate of 7% on legal services but not on any other professional services provided to individuals and businesses in B.C., including accounting fees, bookkeeping fees, realtor commissions, insurance fees, and consultant or independent contractor fees. Accountants provide some tax services that lawyers also deliver at the rate of 0% PST, while B.C.’s lawyers must charge 7% PST to clients.<sup>2</sup>
- **No Input Tax Credit.** Unlike the Goods and Services Tax or Harmonized Sales Tax (“GST/HST”), there is no corresponding input tax credit for the PST paid by clients in respect of legal services for business. As such, clients cannot claim back the cost of PST paid as a legitimate business expense for their enterprises.
- **Competitive Disadvantage.** B.C. is the only Province in Canada that charges a 7% tax on legal services. Given the expanded mobility rights in Canada that permit lawyers to practice across Provincial borders, the entire legal services industry in B.C., including all notary publics, involved in transactional work is at a competitive disadvantage with lawyers and notaries from other Provinces.<sup>3</sup> There is a disincentive for clients in Ontario and other GST/HST jurisdictions (or Alberta, that is completely without sales taxes) from retaining B.C. lawyers or notaries to conduct transactional work in B.C. if there is no concomitant input tax credit available for the PST paid
  - on legal services. Simply put, B.C. lawyers and notaries have 7% more cost than other jurisdictions in Canada.

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1 Wilson, Tony (2013, April 9). Why PST in B.C. marks return of a ‘profoundly stupid tax’. *The Globe and Mail*. Retrieved from: <http://www.theglobeandmail.com/report-on-business/small-business/sb-money/why-pst-in-bc-marks-return-of-a-profoundly-stupid-tax/article10854872/>

2 Ibid.

3 Wilson, Tony (2013, April 22). PST Regime puts B.C. at a disadvantage. *Canadian Lawyer*. Retrieved from: <http://www.canadianlawyermag.com/4625/PST-regime-puts-B.C.-at-a-disadvantage.html>

- **Only ½ for Legal Aid.** While it was implied that the tax was to fund the laudable goal of access to justice for the impoverished, of the approximately \$12 million a month that the Provincial Government collects from the 7% PST on legal services, only “slightly more than half” is actually spent on legal aid.<sup>4</sup> In 2009, of the \$144.8 million collected of PST on legal services, only \$80 million was actually allocated to legal aid for disadvantaged British Columbians.<sup>5</sup>

#### THE CHAMBER RECOMMENDS

That the Provincial Government eliminate the 7% PST on legal services in B.C.

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4 Mulgrew, Ian (2014, June 27). Lawyers still rankled over legal services tax. *Vancouver Sun*. Retrieved from: <http://www.vancouversun.com/opinion/columnists/mulgrew+lawyers+still+rankled+over+legal+services/9982589/story.html>  
5 Ibid.

