

Exemption for Co-operative Corporations

Corporation Capital Tax

In the provincial budget of March 22, 1994, the Honourable Elizabeth Cull, Minister of Finance and Corporate Relations, announced an exemption from corporation capital tax for co-operative corporations. The exemption is applicable for corporate **taxation years ending after March 31, 1994 and relates to the entire taxation year** of the corporation; i.e., there is no straddle provision phasing in the exemption.

The definition of "co-operative corporation" is contained in Bill 15, the *Corporation Capital Tax Amendment Act*, 1994 and is repeated below.

The information in this bulletin is provided for your convenience and guidance and is not a replacement for the legislation. The *Corporation Capital Tax Act* and Regulations can be found on the web at www.gov.bc.ca/sbr

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LEGISLATIVE REQUIREMENTS

In order to qualify for exempt status pursuant to paragraph 4(3)(k) of the *Corporation Capital Tax Act* (the Act), the co-operative corporation must meet criteria listed in the following definition:

Co-operative Corporation

means a corporation other than a credit union,

- that is incorporated, by or under the law of Canada or a province that provides for the establishment of the corporation or for the establishment of co-operative corporations generally, for the purposes of:
 - i) marketing natural products belonging to or acquired from its members or customers including any processing connected with or incidental to that marketing,
 - ii) purchasing supplies, equipment or household necessities for, or to be sold

- to, its members or customers, or
- iii) performing services for its members or customers, and
- to which the following apply:
 - i) the statute by or under which it is incorporated, its charter or its contracts with its members, or its members and customers, provides for payments to be made to them in proportion to patronage;
 - ii) none of its members, other than other co-operative corporations, has more than one vote in the conduct of the affairs of the corporation;
 - iii) at least 90% of its members are individuals, family farm corporations*, or other co-operative corporations and at least 90% of its shares, if any, are held by individuals, family farm corporations or other co-operative corporations.

ADMINISTRATIVE ISSUES

A Procedure to Obtain Exempt Status

In order to obtain exempt status for CCT purposes, the co-operative corporation must notify the branch in writing. The corporation should send a letter signed by an authorized officer of the company certifying that the corporation is no longer liable to tax pursuant to

paragraph 4(3)(k) of the Act.

The onus is on the corporate taxpayer to establish that it fits within the parameters of the exemption contemplated by the legislation. As such, the following information should be enclosed with the letter to the B:

- the taxpayer's name, account number, and taxation year-end;
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- a summary of commercial operations or description of the business activity in which the co-operative corporation is involved;
- a copy of the co-operative corporation's statute, charter or contract with its members or an extract of same detailing the provisions for members' voting rights and patronage payments;
- a listing of the co-operative corporation's members or confirmation that 90% of the members are individuals, family farm corporations* or other co-operative corporations;
- the corporation's complete set of financial statements prepared in accordance with generally accepted accounting principles **for its taxation year ending after March 31, 1994**; and
- a copy of the federal income tax return, including all supporting *schedules for its taxation year ending after March 31, 1994*.

Refer to Information [Bulletin CCT 006, Exemption for Family Farm Corporations](#), for the definition of family farm corporations.

Once the branch is satisfied that the criteria for exemption have been met, a letter of acknowledgment will be sent to the co-operative corporation confirming its exempt status for CCT purposes.

The co-operative corporation must meet the criteria for exemption **each taxation year** in order to be exempt from tax in those years. Therefore, if the co-operative corporation has a change in taxation status, the onus is on the taxpayer to notify the branch. It is the intention of the branch to review the exempt status of all companies on an intermittent basis.

B Refunds of 1994 Instalments

If the co-operative corporation has already made instalment payments in respect of its taxation year ending after March 31, 1994, but now qualifies for exempt status, it may be eligible for a refund of these tax instalments.

The branch will only consider requests to refund a corporation's instalment payments if the request is made in writing **prior to the earlier of the required filing date or the actual filing date of the CCT return for the year.**

Any such request for a refund of instalments must be in writing and signed by an authorized officer of the corporation. The request should clearly state the corporation's name and CCT account number; the amount of the instalments to be refunded; the relevant taxation year end; and the reason for the request (i.e., the taxpayer believes it is exempt from CCT pursuant to paragraph 4(3) (k) of the Act).

If the branch later determines that the corporation is not exempt from CCT, and the amount of the refund results in an instalment deficiency, the corporation will be liable for interest and/or penalty charges.

NEED MORE INFO?

This bulletin is provided for convenience and guidance.

For further information, please contact:

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