Ministry of Small Business and Revenue

BRITISH COLUMBIA

Bulletin SST 091

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Transfers of Business Assets as Part of a Winding Up, as a Dividend in Kind, or as a Return of Capital

Social Service Tax Act

This bulletin outlines the application of social service tax to the transfer of business assets as part of a winding up, as a dividend in kind, or as a return of capital.

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

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WINDING UP OF A COMPANY

Under the *Social Service Tax Act*, tax is imposed on the sale of tangible personal property. Sale is defined as including a transfer of title or possession of tangible personal property for a price or other consideration.

When assets are transferred to a shareholder as part of the winding up, dissolution, or liquidation of a corporation, and the shares of the shareholder are reduced in value or cancelled as a result of the transfer, consideration has been paid for the assets. By definition, a sale has occurred within the meaning of the Act. The shareholder is therefore required to pay tax on the value of the assets at the time of transfer.

Please note that the exemptions provided in Regulations 3.14 to 3.14.3 may apply to transfers of assets between related corporations prior to a winding up. For further information about transfers of assets between closely related companies, please refer to **Bulletin SST 092,** *Transfer of Business Assets Between Closely Related Parties*.

DIVIDEND IN KIND AND RETURN OF CAPITAL

The same principle applies to the transfer of assets as a dividend in kind or a return of capital whether in the course of a winding up or otherwise.

When a company declares a dividend to a class or classes of shareholders, a liability is created to each of those shareholders. If the dividend is paid by transferring an asset of the company, the liability to the shareholder receiving the asset is reduced to the extent of the value of the asset. The transfer of title or possession of the asset is therefore contingent upon the reduction of the company's liability to pay all or a portion of the dividend to the shareholder.

When a company transfers an asset to affect a return of capital to a shareholder, the value of shares held by that shareholder is reduced to the extent of the value of the asset.

These transactions meet the definition of a sale under the Act. That is, when tangible personal property is transferred as a dividend in kind or as a return of capital, the consideration paid by the shareholder in return for the asset is the cancellation of the company's liability to pay the dividend or the reduction in the value of shares held by the shareholder. The shareholder is therefore required to pay tax on the value of the asset at the time of transfer.

NEED MORE INFO?

This bulletin is provided for convenience and guidance. If you still have questions call us at 604 660-4524 in Vancouver or toll-free at 1 877 388-4440 elsewhere in Canada or refer to the legislation.

Information is also on the web at www.sbr.gov.bc.ca While there, you can subscribe to our free electronic update service.

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References: *Social Service Tax Act*, Section 1 and Regulations 3.14 to 3.14.3