


PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. **376**

, Approved and Ordered

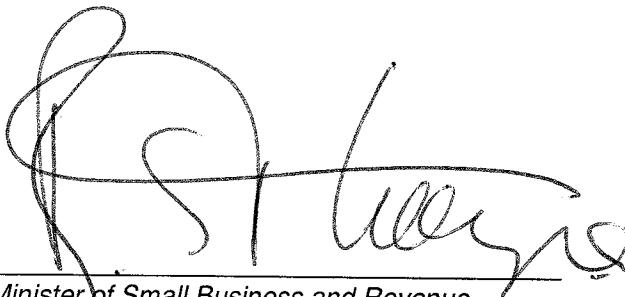
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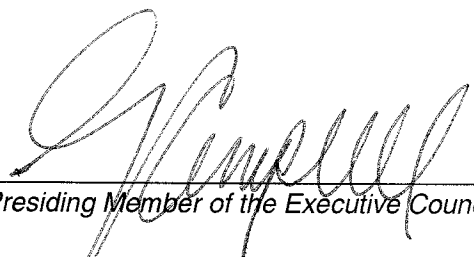


Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the Motor Fuel Tax Regulation, B.C. Reg. 414/85, is amended as set out in the attached Schedule.



*Minister of Small Business and Revenue
and Minister Responsible for Deregulation*

Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Motor Fuel Tax Act, R.S.B.C. 1996, c. 317, ss. 48 (1) and 71 (2) (y)

Other (specify): OIC 2416/85

January 24, 2006

SCHEDULE

1 The following sections are added:

Calculation of interest if assessment exceeds refund

- 5.3** (1) This section applies to the calculation of interest under section 48 (1) of the Act if
- (a) the director makes an assessment against a person under section 43 (1) or (2) of the Act for an amount of tax payable, collected or due,
 - (b) the director has determined that the person referred to in paragraph (a) is entitled to a refund under the Act or the regulations in respect of taxes paid or remitted or security paid during the period of time considered by the director in making the assessment referred to in paragraph (a),
 - (c) prior to the director's giving notice of the assessment for the amount of tax referred to in paragraph (a), the application for the refund that is required by the Act is made by the person but the refund is not yet made, and
 - (d) the amount of tax referred to in paragraph (a) is equal to or exceeds the amount of the refund referred to in paragraph (b).
- (2) In the circumstances set out in subsection (1), the director must calculate interest on the amount of tax referred to in subsection (1) (a) as follows:
- (a) by calculating the interest, in the manner prescribed under section 5.2 and at the rate prescribed under the Interest Rates Under Various Statutes Regulation, on each of the following:
 - (i) the amount of tax referred to in subsection (1) (a);
 - (ii) the amount of the refund referred to in subsection (1) (b) as if that amount were an amount of tax assessed against the person on the date that the person remitted the tax that resulted in the person's entitlement to the refund;
 - (b) by subtracting the amount calculated under paragraph (a) (ii) from the amount calculated under paragraph (a) (i);
 - (c) by calculating the interest payable on the amount of the refund referred to in subsection (1) (b) in the manner and at the rate prescribed under the Interest on Overdue Accounts Payable Regulation;
 - (d) by adding the amount calculated under paragraph (c) to the amount calculated under paragraph (b).
- (3) If the amount calculated under subsection (2) (d) is a negative amount, the interest on the amount of tax referred to in subsection (1) (a) is zero.

Calculation of interest if refund exceeds assessment

- 5.4** (1) This section applies to the calculation of interest under section 48 (1) of the Act if section 5.3 (1) (a), (b) and (c) apply, but the amount of tax referred to in section 5.3 (1) (a) is less than the amount of the refund referred to in section 5.3 (1) (b) and (c).
- (2) In the circumstances set out in subsection (1),

- (a) the rate of interest payable on the amount referred to in section 5.3 (1) (a) during each successive 3 month period, beginning on January 1, April 1, July 1 and October 1 in every year, is 2% below the prime lending rate of the principal banker to the Province on the 15th day of the month immediately preceding that 3 month period, and
- (b) interest must be
 - (i) compounded monthly, and
 - (ii) calculated on the number of days since the last compounding of interest, or, if no compounding has yet occurred, from the date that interest is payable under the Act.