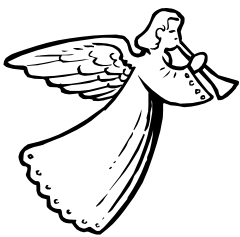




POTENTIAL TAX LIABILITY DEALING WITH NON-RESIDENT CONTRACTORS/ TRADES



There continues to be discussion within the industry regarding liabilities arising from out of province contractors and suppliers doing business in B.C.. The Board of Directors asked that we advise members of the issues involved to assist in avoiding future costly problems.

General Contractors, Trade Contractors, and Suppliers are all required to pay provincial tax under the Social Service Tax Act. Services as well as materials and equipment are taxed under this Act. For example, in a Lump Sum or Fixed Price Contract, the Contractors are the consumers of all tangible personal property used or consumed in carrying out the terms of the contract, and therefore must pay tax on the purchase of such materials. The contractor also pays tax on all machinery, tools and other equipment used to carry out the contract. Anyone in business will be aware of their tax responsibilities. However, it should be understood that additional liability may accrue in the event that you are doing business with non-resident contractors/trades/suppliers and they do not properly submit their tax to the provincial government.

Under a lump sum contract, non-resident contractors working in B.C. are required to pay tax on their total cost of all applicable material brought into the province, as well as machinery and equipment brought into the province and used or consumed in the project. Contractors who are considered "Vendors" that is, they supply materials or enter into cost-plus contracts,

are supposed to register with the Consumer Taxation Branch. As Vendors, they are then required to collect tax and submit it to the government. If the contractor only supplies materials occasionally there is no requirement for registration, although they are still required to collect tax and submit it. Unfortunately, while the requirement to pay the tax exists, the policing of non-resident contractors may not be effective. Currently the Consumer Taxation Branch regularly audits companies doing business in BC to ensure they are complying with the legislation. Where it is found that they are not in compliance they will be assessed. The situation may occur, however, where the Taxation Branch will look to the purchaser of the goods or services and require them to pay outstanding taxes. It is often difficult to pursue a non-resident for outstanding taxes, and the Act **can** place the ultimate responsibility for payment of tax on the purchaser.

Members should be aware of the potential tax liability when dealing with non-residents. If they cannot be certain that the appropriate taxes are being submitted to the government, they should either withhold sufficient funds until confirmation that taxes have been paid, or pay the tax directly to the government.

Concerns or questions about the Social Service Tax Act can be addressed to the nearest **Consumer Taxation Branch Office**.

BC ONLINE

HAPPY NEW YEAR !



For those interested members with access to the internet, you may wish to open an account with **BC ONLINE**. This is an electronic service providing access to government data bases, and in particular, the Land Title Office. Users may search Titles for Builders Liens from their own computer at a cost of \$2.00 per search. Information on how to set up an account and a full breakdown of services and costs can be found at: www.bconline.bc.ca , or call their toll-free number at 1-800-663-6102.

STANDARD CONTRACTS: WHY?

There is an on-going concern within the construction industry, regarding the proliferation of amended or altered standard contracts. A standard contract, such as the BCCA200, is used as a base with a number of additions, deletions or amendments attached to it. The document becomes altered to the extent that it may no longer be achieving the purpose for which it was intended.

Entering into a construction contract is a primary requirement of doing business for contractors. A construction project will produce a myriad of contracts between the Owner and Prime Contractor, the Prime Contractor and Sub-contractor and so on down the line. The purpose of each contract is to outline the rights and obligations of the contracting parties. Balancing those rights and obligations is vital for mutual co-operation and productivity.

Reviewing and understanding the contract is crucial to the success of the contracting party. Equitable apportionment of liability and clarity of responsibilities can only be achieved through a properly drafted contract. Ideally, each contracting party would have, at its disposal, properly trained legal professionals to interpret and draft each contract as required, negotiate with the other party, and be under no time pressures to complete the job. In the real world, however, this is rarely the case, particularly for smaller businesses.

To combat the resulting potential inequality of

bargaining power, standard construction documents, such as the BCCA200 are developed, over time, after much consultation and research, in an effort to provide parties with a document they can become familiar with, and which balances their rights and obligations in a fair and workable manner. Such a contract provides advantages for both parties to a contract. It provides consistency and certainty within the industry and reduces costs, not only in the initial drafting and execution stage of the contract, but also after the fact, by the avoidance of disputes and potential litigation.

The BCCA endorses standard contracts, such as the CCDC-2 and the BCCA200. While no one contract can ever be sufficient for all situations, extensive alteration or additions destroy the inherent value of the standard contract, and should not be encouraged. Often clauses are inserted or deleted which increase the liability on one of the parties, usually the party with the least bargaining power. To protect yourself and your business--be certain of what is in your contract.

BC BUSINESS SUMMIT REPORT RELEASED

On December 10, 1998, the organizers of the BC Business Summit released their report. It provides an overview of the ideas and insights produced by the Business Summit held in Vancouver in November. The report makes a series of recommendations regarding taxation, government spending, land-use, cutting red tape, education, and labour relations. A full copy of the report will be available on-line at www.bcbusiness-summit.com .



MERRY CHRISTMAS !
