

Check Against Delivery

Submission to the
Standing Committee on Finance & Government Services

2009 PROVINCIAL BUDGET

Prepared by:

The CANADIAN BAR ASSOCIATION – BRITISH COLUMBIA BRANCH

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Good afternoon.

My name is Miriam Maisonville and I am the President of the Canadian Bar Association of British Columbia. I am joined by James Bond, the Vice President and Caroline Nevin, the Executive Director.

As President I am pleased to speak to you today on behalf of 6,000 practicing lawyers from across B.C.

I am proud to say that this is our sixth submission to the Finance Committee. We value the opportunity to participate in this process each year.

This year, I would like to focus on three policy areas of great interest to the BC Branch of the Bar Association.

The first area I would like to address concerns Registered Retirement Plans and the importance of ensuring that holders of these plans are afforded the same level of protection as pension holders.

Secondly, I wish to give a brief overview of our perspective on the issue of student loans and the impact on young legal professionals in British Columbia.

And lastly, I will, once again, make a case for the abolishment of the PST on legal services.

Now to start with the first matter we would like to discuss, retirement savings.

Government encourages individual planning and savings for retirement and in doing so, accomplishes dual policy goals:

- less dependence on government and government programs; and
- the creation of investment capital.

What many people don't realize is that pension plans are exempt from seizure by creditors, but individual savings through RRSPs, DPSPs, and RRIFs are **not** protected, under B.C. Law.

This is an anomaly in the law and is inconsistent with government policy goals.

The vast majority of British Columbians who are workers, entrepreneurs, small business owners and professionals do not have access to company or government pension plans.

Small businesses in B.C. in 2007 represented:

- 98% of all businesses;
- Over a million people employed (that's 47% of all employment);
- And 27% of the Province's GDP

All of these people are encouraged by government policy to save for their own retirement, through, for example, Registered Retirement Savings Plans.

The data is clear- since first being introduced in 1957; RRSPs have become an essential part of Canada's retirement system.

For example, Canadians saved \$600 billion in accumulated RRSPs assets as of 2005. In fact, RRSPs have become more popular than employer pension plans.

Protection of Registered Plans from creditors is needed to ensure that British Columbians have enough money saved for retirement so they won't be a drain on the government's social safety net.

While it is the duty of debtors to pay their creditors, those people who are self-employed should receive the same protection as those wage earners who have a registered employer pension plan.

Acting would yield many benefits, including injecting needed certainty into the law, harmonizing BC law with federal law and encouraging growth in the BC economy.

Lastly, and perhaps one of the most salient of the arguments that we have presented today, is that if government were to act to protect Registered Plans there would be no cost to government, no additional bureaucracy or government services required, no burden on taxpayers and would add no red tape.

It works within the existing legal framework which also means that it is within the power of the government to act on this measure.

Over the past several months, we have been busy talking to other groups that have an interest in the subject. And we can conclude that support for this reform is widespread.

For example, we have endorsements from:

- The Institute of Chartered Accountants of British Columbia;
- The B.C. Medical Association; and
- The B.C. Real Estate Association

This province has, over the years, shown leadership in fostering a positive business environment. This simple action would be meaningful to many British Columbians and we encourage you to support this popular measure.

I would now like to address student loans.

To many of you, it should come as no surprise that the cost of a legal education has risen steadily over the years. Today, graduating law students confront overwhelming debt.

When articles are considered, graduates must factor in the “economics” of their decision – they can compete for higher paying positions in large Vancouver firms or they can move to smaller or rural centres to start their practice, where the prospects may not be as advantageous.

Regardless, the “myth” of the wealthy young lawyer with a six-figure salary is not the reality of many new graduates.

The articling period is a full time educational period. The Law Society has the mandate from the Province to set educational standards and requirements, oversees the completion of the program, and evaluates students – just like any other educational institution in B.C.

However, articling students must begin to repay their student loans during their articles. But fortunately, the financial burden to these students is preventable.

We propose that the period while a student articles be considered 'full time study'. This would result in student loans staying in the "no payment / interest free" status for the entire 12 months of articles and then converting to "no payment / interest accruing" status for the six month period following. Currently, this period commences the moment university classroom studies cease.

Lastly, I would be remiss if I excluded a discussion of the PST on legal services.

For the benefit of new Committee members, I would explain briefly that this tax, introduced in 1992, targets legal services exclusively. No other professional services are subjected to the tax. No other province targets legal services for a special tax- thereby making the cost of doing business in BC greater than any other provinces.

The tax is also regressive. It has a disproportionate impact on low and modest-income individuals and small businesses who are the least able to afford it.

In essence, the tax is unfair and discriminatory. And this very Committee has agreed with this point in the past.

Over the years, no one inside or outside of government has ever mounted any rational defence of the tax that I know of. In fact, it has been commonly conceded that the tax is indeed discriminatory, unfair, bad for business and does not make sense. And yet it remains.

To speak bluntly, the tax remains for one very obvious reason: it raises money. But we must also consider the damage the tax does, and the unfairness of it. Many unfair taxes would be successful at raising money. But that alone is not enough to justify a tax.

Last year, the Committee recommended that the PST collected on legal fees be applied to legal aid. The B.C. Branch of the Canadian Bar Association respectfully disagrees and believes that adequate legal aid funding is the responsibility of all taxpayers, not only those who use legal services. We believe that access to justice is a fundamental right and no less important than an individual's right to healthcare and education. Creating an additional impediment to justice in order to fund access via legal aid is, while well intentioned, simply does not make sense from a political or policy standpoint.

In closing, we look forward to reviewing your report and recommendations later this fall and hope that you will relay to the government the significance of addressing these three important issues. On behalf of our membership, I thank you for the opportunity to appear before your Committee.

I would be pleased to answer any questions that the Committee may have.