

**Canadian Bar Association – British  
Columbia Branch**

10<sup>th</sup> Floor, 845 Cambie Street  
Vancouver, British Columbia  
V6B 5T3



**Submission to the  
Standing Committee on Finance and Government Services  
In Advance of the 2005 Provincial Budget**

The Canadian Bar Association, British Columbia (CBABC), is pleased to provide this submission to the Standing Committee on Finance and Government Services regarding the 2005 provincial budget to be presented in February.

The CBABC is dedicated to improving and promoting access to justice, to reviewing legislation, initiating law reform measures and advancing and improving the administration of justice. The CBABC represents more than 10,000 lawyers in British Columbia, who are active in all major areas of legal practice - touching every region, major economic and social sector of British Columbia. The CBABC promotes a growing, vibrant and highly skilled legal profession that is a bellwether of the economic and social wellbeing of the province and an important service industry unto itself.

**Budget 2005 Consultation**

The CBABC is pleased to provide this response to the *Budget 2005 Consultation Paper*. In particular, the CBABC would like to advocate for a targeted tax reduction to help individuals and businesses in British Columbia. The CBABC shares the provincial government's imperative for sound fiscal management and a focus on increasing the competitiveness of the B.C. economy to create more opportunities for British Columbians.

**RECOMMENDATION:**

**The CBABC recommends that the provincial government eliminate specific taxes that impede economic activity, growth and investment.**

Specifically, the CBABC recommends that the provincial government **eliminate the 7.5 percent tax on legal fees**, which is an impediment to commercial transactions in British Columbia where legal services are required, an economic disadvantage to the citizens of British Columbia who access legal services and another hidden input cost that is passed on to consumers B.C.'s of goods and services.

In 1992, a seven percent Social Service tax on legal services was introduced, initially intended to fund legal aid, but has consistently been allocated to general revenue. The tax was increased to 7.5 percent in 2002, realizing over \$100 million annually in tax revenue. In addition, the provincial government receives direct funding for criminal legal aid and youth justice cases from the federal government.

Legal services are the only professional services in British Columbia subject to a provincially imposed tax. This makes the tax on legal services not only discriminatory, but an additional burden on British Columbians attempting to access the justice system. Moreover, this tax is incompatible with the provincial government's goal to create a competitive business environment in British Columbia. The tax inflates the cost of doing business relative to other jurisdictions where no such tax is imposed; promotes the export of legal services business to other provinces, most notably Alberta and Ontario, and hampers British Columbia law firms competing for business.

Organizations like the Business Council of British Columbia concur with this assessment. In its submission to the Standing Committee on Finance and Government Services in advance of the 2004 Budget, the Council stated that the provincial government should:

*Exempt more categories of business inputs from the 7.5% provincial sales tax, by extending the present exemption beyond production machinery and equipment used in manufacturing and resource processing to include as well energy, building materials, telecommunications, legal services, and other inputs.*

While the CBABC is not in a position to recommend allocation of provincial government funds between such areas as health and education (as set out in the consultation document), the CBABC strongly recommends that the provincial government eliminate the tax levied on legal services. This action would remove an obvious impediment to businesses investing in British Columbia; relieve an existing business cost burden disproportionate to other jurisdictions; increase the global competitiveness of British Columbia law firms; and reduce the cost of legal services, thereby increasing accessibility to the justice system.

The CBABC also supports the provincial government priority to better target resources for “people in need.”

**RECOMMENDATION:**

**The CBABC recommends that, where government revenue growth and fiscal management allow for the review of spending priorities, spending aimed at safeguarding the poorest and most marginalized in society be given priority.**

Specifically, the CBABC recommends that **legal aid funding be increased** to provide financial relief to those requiring legal services and who cannot afford legal representation.

In 2001-2002, funding for legal aid services by the provincial government amounted to \$88.3 million, while the Legal Services Society of British Columbia and more than 1,300 private bar lawyers provide these services. In 2001, the Society assisted approximately 158,000 British Columbians with referrals, summary advice and legal information in criminal, family, immigration, human rights and other civil law matters.

In March 2003, the Legal Services Society and the Ministry of Attorney General reached agreement on a three-year Memorandum of Understanding (MOU) which saw the budget for legal aid reduced to \$71.4 million in 2002/03 and \$63.6 million in 2003/04. In the 2004/05 budget year, funding for legal aid will be \$55 million. In response, the number of British Columbians assisted by the Legal Services Society will fall to approximately 90,000. Entire categories of legal aid including summary advice, significant family law matters, human rights, and poverty law have been eliminated.

Funding cuts to legal aid affect many of the poorest and most marginalized in BC society – the people least able to represent themselves and access the justice system. The impact has been a serious erosion of access to justice, particularly in areas such as poverty and family law cases.

Legal aid is a fundamental requirement of a legal system founded on the principle of equality of every person before the law. Access to justice by people who cannot, by reason of economics or life circumstances, obtain legal counsel compromises the legal system and further disadvantages those who are poor and marginalized in society. The CBABC recommends that legal aid funding be increased to ensure direct benefit to those in greatest need in British Columbia and improve the justice system.

## **Conclusion**

The CBABC supports the provincial government priorities to revitalize the economy and support people in need. The two recommendations in this submission are aimed at achieving both these goals. By eliminating the tax on legal fees, the government will remove a disincentive to conducting business transactions in British Columbia and discourage the export of legal services from BC. By increasing legal aid funding, the provincial government will improve access to justice for those most in need in our society.

\*\*\*\*\*

The CBABC appreciates this opportunity to share our views with the Standing Committee on Finance and Government Services. We look forward to reviewing the Committee's report later this year.