

BRIEFING NOTE

TO: UBCIC CHIEFS COUNCIL
DATE: JUNE 3, 2010
RE: BACKGROUND AND UPDATE ON UBCIC'S HST WORK

PURPOSE

Provide a background on UBCIC's HST activity to date, and background to the current anti-HST petition organized by Bill Vander Zalm.

BACKGROUND

The provincial government of British Columbia announced its intentions on September 1, 2009 to adopt the proposed Harmonized Sales Tax (HST), which combines BC's 7% Provincial Sales Tax (PST) with the 5% federal Goods and Services Tax (GST). The HST will be applied to the same tax base as GST is currently applied to.

At the UBCIC Annual General Meeting in September 2009, Resolution no.2009-41 was passed in support for work regarding HST and related Tax Matters. This resolution directed the UBCIC Executive to raise concerns with the Ministries of finance of the provincial and federal governments regarding HST and its impact on BC First Nations and to call for meaningful consultation and accommodation. The resolution also directed the Executive to strike a representative Chiefs Committee and engage in further technical work around the HST. The HST Committee was struck by Resolution no. 2009-51, and Chief Don Moses, Chief Keith Matthew, and Chief Mike LeBourdais were appointed.

UBCIC's three advocacy points against the HST to date have been:

1. Neither federal nor provincial governments have consulted BC First Nations about the change in the tax regime that will be imposed;
2. The HST is a consumption tax, and will increase the poverty of BC First Nations, who are disproportionately poor in BC;
3. Businesses engaged in natural resource extraction on unceded First Nations land will gain economic benefit from the HST, yet there has not been any discussion of sharing benefits with First Nations whose resources are being extracted.

UBCIC'S WORK ON HST TO DATE

UBCIC has voiced consistent opposition to the proposed HST since September 2009, directed by the UBCIC HST Committee and the Executive:

- The UBCIC HST Committee directed the UBCIC Executive to send letters to the provincial and federal Ministers of Finance, pursuant to the UBCIC Resolution. None have yielded a meeting with either government to date. Each government has deferred to the other. Letters have also

been sent to the Standing Senate Committee on Aboriginal Peoples requesting that the Committee conduct a study on the effects of HST on BC First Nations.

- UBCIC commissioned a discussion paper on the impacts of HST on BC First Nations. This was written by Merle Alexander, of Boughton Law Corporation and presented at the November 2009 Chiefs Council.
 - The report highlights that First Nations should feel rightly frustrated in the failure of BC and Canada to consult, and that the off-reserve population will be detrimentally affected by the regressive nature of the sales tax. The report also notes potential opportunities for Aboriginal businesses, and opportunity for preferential treatment of Indian Bands and First Nations non-profit entities. The report points out that there is need for clarity to ensure around how FNST and FNGST will be affected.
 - The report concludes with five key issues for engagement that address ensuring adequate consultation, inclusion of First Nations voice, clarifying impacts on FNST, clarifying impacts on FNGST, and considering a non-derogation statement regarding application of s.87 of the *Indian Act*.
- UBCIC published an initial press release in opposition to the HST on November 26, 2010.
- In December 2009, Chief Keith Matthew was actively involved in passing Assembly of First Nations' Resolution no. 32/2009 "Imposition of HST on First Nations." The resolution recognizes and supports First Nations that oppose the HST, and directs the AFN to support and participate in any action plans or direct action strategies by First Nations that oppose the HST.
- During Ontario Regional Chief Angus Toulouse's presentation on HST (December 14, 2009) to the Senate Standing Committee on Finance during their committee hearings on Bill C-62 – An Act to Amend the Excise Tax, he tabled a letter dated Oct. 22, 2009 from the UBCIC Executive to Minister Flaherty and Minister Hansen outlining UBCIC's concerns.
- UBCIC published a second press release on March 10, 2010, supporting the Ontario Chiefs opposition to the HST and re-stating UBCIC's position. This press release was read out at an anti-HST rally on Parliament Hill organized by First Nations in Ontario.
- UBCIC wrote a letter to MLAs in B.C. on April 20, 2010, calling on them to vote against the HST.
- UBCIC sent a follow-up letter to Hon. Colin Hansen and Hon. Jim Flaherty on May 12, 2010, reiterating objections to both levels of governments' failure to consult and respond to inquiries.

CURRENT STATUS

UBCIC's recent work on HST

UBCIC's letter to MLAs on April 20, 2010 objecting to the HST was raised in the legislative assembly by NDP MLA Jagrup Brar (Critic for Healthy Living and Sport) and NDP MLA Scott Fraser (Critic for

Community and Rural Development, formerly Critic for Aboriginal Relations and Reconciliation), to which Colin Hansen answered that all concerns had previously been addressed. On May 14, 2010, Colin Hansen sent two letters to UBCIC- one in follow-up to his incomplete response on December 8, 2009, and one in response to the MLA letter. Neither Hon. Hansen nor Hon. Flaherty have committed to an in-person meeting with UBCIC leadership.

Vander Zalm's Anti-HST Petition

Former BC Premier Bill Vander Zalm launched a Citizen's Initiative petition against the HST on April 6, 2010. Under B.C.'s *Recall and Initiative Act*, the canvassers have 90 days to collect the signatures of 10 per cent of registered voters in each of the province's 85 ridings. With about three million voters in the province, that means the campaign has until July 5 to collect about 300,000 signatures, and the campaign is trying to get 442,712 signatures for a safety cushion (all signatory must be registered voters in the correct district). **As of May 28, 2010, Vander Zalm has told the media that the anti-HST petition has the necessary 10% of signatures in all 85 ridings in B.C.** Now, they will continue collecting signatures to ensure a cushion if any signatures are ineligible, and to demonstrate opposition.

After the petition

IF the petition is successful, the government has two options- vote on the legislation being proposed by Vander Zalm which would repeal the HST and reinstate the PST ("HST Extinguishment Act"), OR conduct a province-wide referendum (Initiative Vote) on the question of extinguishing the HST in BC.

If the government chooses to vote on Vander Zalm's legislation, and the majority vote it down, then Vander Zalm will target those politicians who voted against the legislation for Recall. A Recall requires 40% of registered voters to sign a Recall petition, and then an MLA is automatically recalled. Vander Zalm has said the campaign would target specific MLAs and utilize the "army of volunteers" they currently have. One option is recalling the premier if possible.

Vander Zalm will consider a legal challenge to the HST if none of the above options are successful, on the basis that the HST contravenes the Constitution Act 1867 and the Excise Tax Act.