

LIDSTONE & COMPANY

BARRISTERS AND SOLICITORS

CLIENT BULLETIN

TO: Clients
FROM: Sara Dubinsky and Marisa Cruickshank
DATE: June 26, 2014
RE: **Farm Assessment Exemption for MMGO's**

On Tuesday June 24, 2014, the Province issued a press release announcing that federally licensed medical marihuana grow operations (“MMGO’s”) will be excluded from the list of agricultural uses which qualify for farm classification for assessment and property tax purposes.

Section 23(2) of the *Assessment Act* requires the assessor to classify as a farm any land (or part of a parcel of land) that meets the prescribed standards for classification of land as a farm. These standards are set out in BC Reg 411/95: *Standards for the Classification of Land as a Farm Regulation* (the “Regulation”). Section 4 of the Regulation provides that the assessor must classify as farm all or part of a parcel of land used for a “qualifying agricultural use” (provided the gross annual value requirements of s. 5 are met). “Qualifying agricultural use” is defined in section 1(1) of the Regulation as follows:

“qualifying agricultural use” means a use of land for agricultural purposes as approved by the assessment authority, following consultation with the minister responsible for the administration of the Ministry of Agriculture and Food Act, and that

- (a) is an agricultural use set out in section 1 of the Schedule to this regulation, and
- (b) is not an excluded use set out in section 2 of the Schedule to this regulation;

Section 1 of the Schedule to the Regulation lists “medicinal plant culture” as a qualifying agricultural use. “Medicinal plant culture” is defined in section 1 of the Regulation to mean “the cultivation or management of plant species, containing naturally occurring substances, that are used to restore, maintain or improve health.” Medicinal marihuana (cannabis) is a plant that contains naturally occurring cannabinoids, which are used to restore,

maintain or improve health, and so its cultivation to date has been a qualifying agricultural use.

However, by Order in Council No. 427, the Province has added a new 'excluded use' to section 2 of Schedule 2, as follows:

- 2 The following are excluded uses for the purposes of paragraph (b) of the definition of "qualifying agricultural use" in section 1(1) of this regulation:

...

(f) the production of any substance set out in item 1 [*opium poppy*], 2 [*coca*] or 17 [*cannabis*] of the Schedule to the Narcotic Control Regulation under the *Controlled Drugs and Substances Act* (Canada), other than the production of industrial hemp in accordance with the Industrial Hemp Regulations under that Act.

Given that the production of cannabis is now specifically excluded from the definition of "qualifying agricultural use", MMGO's will not be able to qualify for farm classification for assessment and property tax purposes, effective as of the 2015 taxation year.

The Province has stated that this amendment will ensure that local governments do not lose potential property tax revenues from licensed MMGO facilities.