

A PUBLIC GOOD:

Should places of worship that are private clubs, discriminatory, or violate COVID-19 rules be tax exempt?





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The Angel Moroni atop the Bountiful Temple, Bountiful. Michael Hart, via Unsplash

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A public good?

Property tax exemptions for places of worship in British Columbia

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Abstract

This report examines tax exemptions granted to places of worship in British Columbia. It begins with an explanation of two basic types of exemption – statutory tax exemptions (STEs) that are granted automatically by the provincial government, and permissive tax exemptions (PTEs) that can be granted by municipal governments. The report reveals that in 2019, places of worship in BC were automatically granted \$45.9 million in STEs and \$12.5 million in PTEs, amounting to \$58.4 million, or roughly \$12 per British Columbian. The report explores a number of shortcomings pertaining to tax exemptions and places of worship in BC. It details how the current system grants tax exemptions to recipients that may operate as private clubs, run commercial enterprises, discriminate against protected groups, or violate rules put in place to stop the spread of COVID-19. The automatic granting of tax exemptions is also criticized, as this lacks appropriate oversight, strips municipalities of their autonomy, and encroaches on their tax base. The report concludes by recommending that STEs be abolished, and that municipalities adopt and equally apply rigorous benefits tests to ensure that recipients of PTEs provide a benefit to the community that is accessible to all.

Introduction

Governments grant a variety of tax exemptions in order to support organizations that provide a public good. These exemptions represent tax revenue that governments would otherwise collect and must therefore be garnered from other sources. Tax exemptions, as a tool of public policy, can help facilitate the efforts of organizations providing services that are of benefit to all members of a community by obviating an organization's need to allocate (potentially) limited resources towards taxes. Organizations, as a result, can direct more funding to providing services that benefit the community.

Governments support the work of organizations with tax exemptions with the assurance that the belief that the recipient may be better situated or equipped to deliver a particular service, or be capable of delivering that service more effectively. Government services should not be exclusionary. These exemptions are not intended to support private clubs or enterprises that exist only to benefit their members. Despite this, a considerable number of places of worship in BC that cater almost exclusively to their membership continue to receive tax exemptions.

Tax exemptions, or any government funds, for that matter, should not be granted to recipients that discriminate in contravention of the *Canadian Charter of Rights and Freedoms* and the *BC Human Rights Code*,¹ or that knowingly violate other laws. Despite this, tax exemptions continue to flow to recipients that engage in discriminatory practices. Furthermore, places of worship that knowingly and overtly violate COVID-19 rules and that have been fined for so doing, enjoy thousands of dollars in tax exemptions. For example, the Langley Riverside Calvary Chapel which has twice been fined \$2,300 for violating COVID-19 regulations received \$11,997 in permissive tax exemptions from the Township of Langley and additional statutory exemptions from the provincial government.²

It is reprehensible that tax exemptions that are intended to support works that benefit the community should continue to flow to organizations that willfully violate rules designed to arrest the progress of a deadly pandemic, and that do not provide services to the public, or that do so in a discriminatory fashion. British Columbia must re-evaluate how it allocates tax exemptions. The provincial government must abolish automatic statutory tax exemptions and give more autonomy to municipalities with respect to tax exemptions. Municipalities need to ensure that permissive tax exemptions, if they are granted, go to organizations that actually provide for the public at large through the implementation of benefits tests.

¹ *Canadian Charter of Rights and Freedoms*, s 8, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11; and *Human Rights Code*, RSBC 1996, c 210.

² Little, S. (2021, January 10). "Group takes B.C. government to court over COVID-19 ban on in-person church services." *Global News*. Available at <https://globalnews.ca/news/7567161/churches-fight-covid-ban/> (retrieved February 17, 2021); and see Township of Langley. (2020, July). "Annual report 2019: For fiscal year ending December 31." Available at <https://webfiles.tol.ca/CorpAdmin/2019-Annual-Report.pdf> (retrieved February 17, 2021), p.31.

This report examines tax exemptions granted to places of worship in BC. It begins with an explanation of two principle types of exemption – statutory tax exemptions (STEs) that are granted automatically by the provincial government, and permissive tax exemptions (PTEs) that can be granted by municipal governments. Tabulating the totals of STEs and PTEs granted in each municipality in BC, the report reveals that in 2019, the provincial government granted \$45.9 million in STEs to places of worship. With respect to PTEs, municipalities relinquished \$12.5 million in 2019 and \$11.5 million in 2018. The report then explores some of the shortcomings with respect to how these tax exemptions are allocated, and concludes with recommendations specific to how these shortcomings can be ameliorated.

Tax Exemptions Explained

In BC, places of worship may receive exemptions from municipal taxation in two forms—statutory and/or permissive tax exemptions. The mechanisms granting these exemptions are detailed in the *Community Charter*,³ the *Vancouver Charter*,⁴ and the *Taxation (Rural Area) Act*⁵ (see Appendix for detailed descriptions). Statutory tax exemptions (STEs) are automatically granted to recipients, whereas in the case of permissive tax exemptions (PTEs), municipalities are given a choice as to whether or not to apply an exemption and permitted to establish criteria around the allocation of these exemptions.

Diagram 1 illustrates the difference between STEs from PTEs. A place of worship is generally considered as a defined area that is used for theistic worship. It must be regularly open to the public, and have public worship as the principal use of the property.⁶ Statutory tax exemptions currently apply to buildings set apart for public worship and the land upon which that building stands (amber portion of the diagram).⁷ Whereas PTEs, depending on municipal bylaws, can be applied to the land surrounding the place of worship, improvements to that land (such as parking lots or playgrounds), and additional halls or other similar structures that are deemed ‘necessary to the exempt building’ (green portions of the diagram).⁸

³ *Community Charter*, SBC 2003, c 26. For statutory tax exemptions see Div. 6, Section 220, and for permissive tax exemptions see Div. 7, Section 224. See https://www.bclaws.ca/civix/document/id/complete/statreg/03026_07#section224 (retrieved February 17, 2021); and see Appendix.

⁴ *Vancouver Charter*, SBC 1953, c 55, Section 396. See https://www.bclaws.ca/civix/document/id/complete/statreg/vanch_21#division_d2e35447 (retrieved February 17, 2021); and see Appendix.

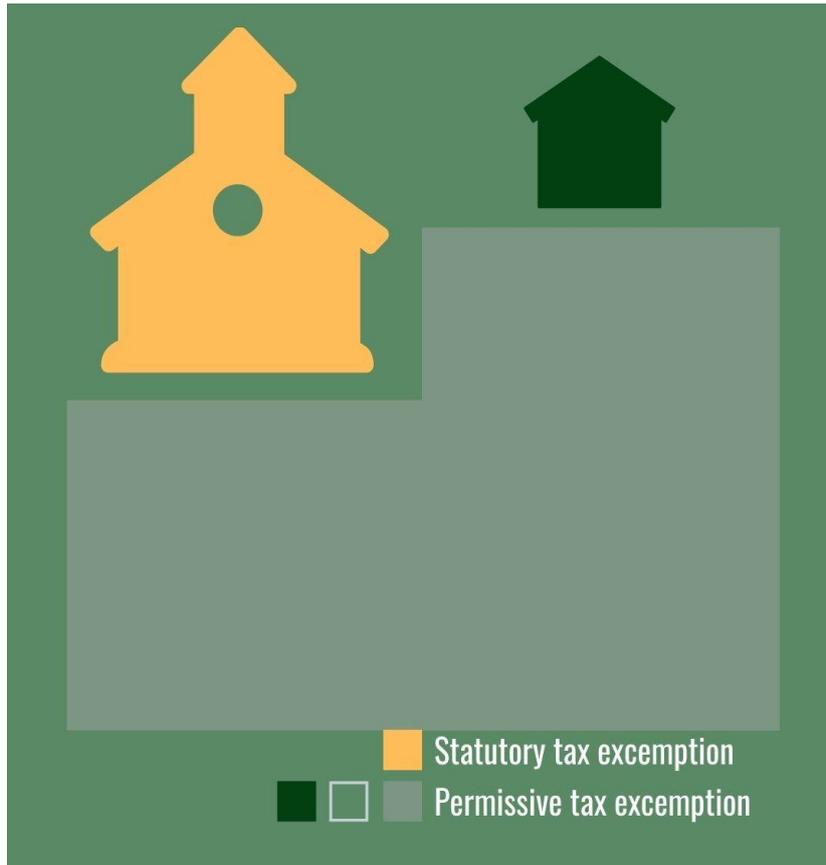
⁵ *Taxation (Rural Area) Act*, RSBC 1996, c 448. Part 2, Section 15. See https://www.bclaws.ca/civix/document/id/complete/statreg/96448_01 (retrieved February 17, 2021); and see Appendix.

⁶ See BC Assessment. (n.d.). “Places of public worship policy.” Available at <https://info.bcassessment.ca/services-and-products/APPs/Places-of-Public-Worship-Policy.pdf> (retrieved February 17, 2021), p.3.

⁷ See *Community Charter*, Section 220(1)(h); *Vancouver Charter*, Section 396(1)(c)(iv); and *Taxation (Rural Area) Act*, Section 15(1)(d).

⁸ *Community Charter*, Section 224(2)(f)(ii).

Diagram 1: Differentiating STEs from PTEs



The *Community Charter* contains provisions allowing municipalities to grant PTEs to properties used for purposes, and by organizations deemed to provide, a public benefit, including charities, nonprofits, land owned by the municipality or regional district, assisted living homes, schools, athletic associations, and hospitals. These potential recipients have one thing in common: they all provide a public good, that is, a beneficial service that is available to all members of a community. PTEs for properties are granted for a period no longer than 10 years, whereas PTEs for places of worship are granted indefinitely.⁹

With respect to PTEs, municipalities are given the leeway to develop their own bylaws and policies regarding how and when they grant these tax exemptions. In this manner, municipalities may establish application processes, benefits tests, caps on amounts, time limits (within the limitations of the appropriate charter). They may choose to automatically apply a PTE to the additional property of any recipient of a statutory tax exemption, or to a specific class of potential recipients, or they may subject applicants to appropriate levels of scrutiny.

STEs are granted automatically by statute, without any controls or oversight by the municipality. These exemptions apply to buildings in which worship occurs, but do not include outbuildings, parking lots, or surrounding land. These portions of the property may be granted a PTE.

⁹ *Community Charter*, Section 224(5).

Methods

The BC Humanist Association has conducted a detailed survey of municipalities in BC in order to calculate the total of taxes exempted through PTEs for places of worship. To accomplish this, our research team inspected the annual reports of each BC municipality going back to 2015. We found that many municipalities delineate PTE recipients by class (such as place of public worship, school, sports association, community activity centre, community housing organization, community service organization), reflecting different ways in which bylaws pertain to these classes of PTEs. Other municipalities simply group all PTE recipients. In the later instance, we inspected the list of recipients individually and extracted any that could be identified as a place of public worship.

In order to calculate the STEs for each municipality, we multiplied the recreation and non-profit mil rates (tax rate) by the total assessed values for ‘churches and bible schools’ and then divided it by 1000.¹⁰ This generated the total amount of forgone revenue (or the total amount of properties exempted in each municipality). In response to a data request,¹¹ BC Assessment provided breakdowns of the aggregated property values for all properties classified as the actual use code 652 or ‘churches and bible schools’¹² for each jurisdiction in the province in 2020. This included land values, any improvements (for example buildings) and the total property value.

Property tax rates for 2019 for each jurisdiction are publicly available and were downloaded from the Government of BC’s website.¹³ We assumed, where places of worship were subjected to property taxes, that they would most likely be classified together with other non-profit organizations under the ‘recreation non-profit’ rate. We added together the total of all charges under that rate (municipal, regional district, hospital, school and other tax rates) to calculate the total mil rate for each jurisdiction. This was then used to estimate the total tax bill from which places of worship in each municipality were exempted.¹⁴

To gain a better understanding of the nature and content of PTE policies across BC, our research team also surveyed the PTE policies of every BC municipality. A detailed analysis of these policies is ongoing and will be released in a forthcoming report; however this general survey provided us with sound understanding of the diversity of policies in the province, and informed the discussion in this report.

¹⁰ City of Vernon. (n.d). “Mill rate calculation.” Available at <https://www.vernon.ca/homes-building/taxes-grants/property-taxes/mill-rate-calculation> (retrieved February 17, 2021).

¹¹ The data was requested by the BC Humanist Association with support from the Voters Without Religion Association and Canadian Atheists.

¹² The full list of actual use codes is available at BC Assessment. (2021). “Actual use codes – Roll year: 2022.” Available at <https://www.bcaassessment.ca/Files/Misc/UserGuide/Tables/dataadv1.pdf> (retrieved February 17, 2021).

¹³ Government of BC. (n.d). “Municipal tax rates & tax burden.” Available at <https://www2.gov.bc.ca/gov/content/governments/local-governments/facts-framework/statistics/tax-rates-tax-burden> (retrieved February 17, 2021).

¹⁴ The formula is [total property value] x [mill rate] / 1000.

STE and PTEs by Municipality

The statutory and permissive tax exemptions by municipality are tabulated below. Note that 'N/A' appears where no exemptions in this category were granted. In the case of STEs, this resulted because no places of worship were identified as being within the jurisdiction of a particular municipality. Entries marked with a "—" indicate that the value was not available, or could not be calculated due to a lack of data. This was typically the case with respect to PTEs where a municipality's annual report was not available at the time of tabulation, or we were unable to determine whether or not places of worship received a PTE from the available annual report. The latter was sometimes the case where a municipality did not disaggregate their reporting on PTEs into categories (e.g. place of worship, school, sport, cultural organization, etc.), which meant that we could not isolate just the value allocated to places of worship. Note that where '\$0' is shown as the PTE value, we were able to confirm that no PTEs were granted.

Table 1: STE and PTE values for BC Municipalities in 2019

Municipality	Population 2016 ¹⁵	STE 2019	PTE 2019	STE Per Capita	PTE Per Capita	Per Capita Total
100 Mile House	1,886	\$23,029	\$9,287	\$12	\$5	\$17
Abbotsford	149,928	\$2,791,561	\$809,191	\$19	\$5	\$24
Alert Bay	489	\$2,726	—	\$6		\$6
Anmore	2,210	N/A	\$0	\$0	\$0	\$0
Armstrong	4,815	\$110,290	\$83,627	\$23	\$17	\$40
Ashcroft	1,558	\$10,371	\$7,304	\$7	\$5	\$11
Barriere	1,713	\$9,684	\$3,021	\$6	\$2	\$7
Belcarra	643	N/A	\$0	\$0	\$0	\$0
Bowen Island	3,680	\$12,075	\$27,858	\$3	\$8	\$11
Burnaby	249,197	\$1,753,173	\$1,695,516	\$7	\$7	\$14
Burns Lake	1,779	\$14,668	—	\$8		N/A
Cache Creek	963	\$17,274	\$8,147	\$18	\$8	\$26
Campbell River	35,138	\$329,041	\$51,590	\$9	\$1	\$11
Canal Flats	668	\$474	\$0	\$1	\$0	\$1
Castlegar	8,039	\$75,949	\$17,893	\$9	\$2	\$12
Central Saanich	16,814	\$192,343	\$158,814	\$11	\$9	\$21
Chase	2,286	\$13,246	—	\$6		N/A
Chetwynd	2,635	\$17,375	\$17,290	\$7	\$7	\$13
Chilliwack	83,790	\$913,267	\$71,076	\$11	\$1	\$12
Clearwater	2,324	\$15,192	\$1,462	\$7	\$1	\$7
Clinton	641	\$1,803	—	\$3		N/A
Coldstream	10,314	\$31,215	\$11,879	\$3	\$1	\$4
Colwood	16,859	\$128,572	\$80,092	\$8	\$5	\$12
Comox	14,828	\$81,270	\$15,183	\$5	\$1	\$7
Coquitlam	140,028	\$1,968,953	—	\$14		N/A
Courtenay	25,599	\$132,878	\$16,795	\$5	\$1	\$6
Cranbrook	19,259	\$297,611	\$46,382	\$15	\$2	\$18
Creston	5,306	\$88,570	\$22,280	\$17	\$4	\$21
Cumberland	3,753	\$5,492	\$559	\$1	\$0	\$2
Dawson Creek	12,978	\$82,447	\$32,495	\$6	\$3	\$9
Delta	110,848	\$1,760,996	\$1,280,400	\$16	\$12	\$27
Duncan	4,944	\$64,429	\$11,371	\$13	\$2	\$15
Elkford	2,523	\$7,960	\$1,164	\$3	\$0	\$4
Enderby	2,964	\$26,234	\$11,001	\$9	\$4	\$13

¹⁵ Using numbers from the 2016 Statistics Canada Survey. Statistics Canada. (2019, June 17). *Census profile, 2016 Census, provincial data, British Columbia*. Census subdivisions (municipalities). Available at <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/search-recherche/lst/results-resultats.cfm?Lang=E&TABID=1&G=1&Geo1=&Code1=&Geo2=&Code2=&GEOCODE=59&type=0> (retrieved February 17, 2021).

Municipality	Population 2016	STE 2019	PTE 2019	STE Per Capita	PTE Per Capita	Per Capita Total
Esquimalt	17,655	\$57,803	—	\$3		N/A
Fernie	5,249	\$25,455	\$34,127	\$5	\$7	\$11
Fort St. James	1,691	\$8,519	\$3,932	\$5	\$2	\$7
Fort St. John	20,155	\$235,252	\$242,192	\$12	\$12	\$24
Fraser Lake	988	\$4,138	—	\$4		N/A
Fruitvale	3,627	\$3,514	\$5,489	\$1	\$2	\$2
Gibsons	4,605	\$53,035	\$58,283	\$12	\$13	\$24
Gold River	1,212	\$7,323	\$1,074	\$6	\$1	\$7
Golden	3,708	\$45,786	\$9,045	\$12	\$2	\$15
Grand Forks	4,049	\$53,517	\$2,055	\$13	\$1	\$14
Granisle	303	\$371	\$8,587	\$1	\$28	\$30
Greenwood	665	\$5,149	—	\$8		N/A
Harrison Hot Springs	1,468	\$9,196	—	\$6		N/A
Hazelton	270	\$7,357	\$0	\$27	\$0	\$27
Highlands	2,225	N/A	\$0	\$0	\$0	\$0
Hope	6,181	\$45,129	\$27,856	\$7	\$5	\$12
Houston	2,993	\$42,115	\$2,867	\$14	\$1	\$15
Hudson's Hope	1,012	\$4,547	\$1,759	\$4	\$2	\$6
Invermere	3,391	\$24,671	\$2,125	\$7	\$1	\$8
Jumbo Glacier	0	N/A	\$0	\$0	\$0	\$0
Kamloops	90,280	\$1,088,357	\$411,162	\$12	\$5	\$17
Kaslo	968	\$10,543	\$0	\$11	\$0	\$11
Kelowna	132,084	\$1,387,619	\$199,651	\$11	\$2	\$12
Kent	6,067	\$31,228	\$22,249	\$5	\$4	\$9
Keremeos	1,502	\$14,574	\$0	\$10	\$0	\$10
Kimberley	7,426	\$58,094	\$10,961	\$8	\$1	\$9
Kitimat	8,335	\$218,730	\$13,793	\$26	\$2	\$28
Ladysmith	8,537	\$20,859	\$15,071	\$2	\$2	\$4
Lake Country	15,000	\$98,660	\$28,814	\$7	\$2	\$8
Lake Cowichan	2,974	\$17,014	\$19,294	\$6	\$6	\$12
Langford	35,342	\$48,686	—	\$1		N/A
Langley	25,888	\$362,131	\$251,018	\$14	\$10	\$24
Langley	143,224	\$2,294,349	\$319,234	\$16	\$2	\$18
Lantzville	3,605	\$9,824	\$2,263	\$3	\$1	\$3
Lillooet	2,321	\$12,684	\$7,951	\$5	\$3	\$9
Lions Bay	1,334	N/A	\$0	\$0	\$0	\$0
Logan Lake	2,073	\$5,881	\$348	\$3	\$0	\$3
Lumby	2,000	\$20,522	\$5,256	\$10	\$3	\$13
Lytton	249	\$518	\$1,279	\$2	\$5	\$7
Mackenzie	3,507	\$14,865	\$9,412	\$4	\$3	\$7

Municipality	Population 2016	STE 2019	PTE 2019	STE Per Capita	PTE Per Capita	Per Capita Total
Maple Ridge	82,256	\$908,149	\$395,374	\$11	\$5	\$16
Masset	793	\$2,235	\$0	\$3	\$0	\$3
McBride	616	\$8,467	\$3,640	\$14	\$6	\$20
Merritt	7,139	\$55,005	\$6,194	\$8	\$1	\$9
Metchosin	4,708	\$23,287	\$3,680	\$5	\$1	\$6
Midway	649	\$2,896	—	\$4		N/A
Mission	38,833	\$810,790	\$236,299	\$21	\$6	\$27
Montrose	19,305	\$970	\$2,243	\$0	\$0	\$0
Nakusp	1,574	\$16,610	\$0	\$11	\$0	\$11
Nanaimo	90,505	\$527,511	\$332,834	\$6	\$4	\$10
Nelson	10,664	\$80,970	\$6,114	\$8	\$1	\$8
New Denver	504	\$2,419	\$0	\$5	\$0	\$5
New Hazelton	580	\$10,106	\$3,890	\$17	\$7	\$24
New Westminster	70,996	\$447,117	—	\$6		N/A
North Cowichan	28,807	\$138,981	\$46,336	\$5	\$2	\$6
North Saanich	11,249	\$87,188	\$43,169	\$8	\$4	\$12
North Vancouver	48,196	\$494,050	\$82,099	\$10	\$2	\$12
North Vancouver	85,395	\$257,701	\$12,691	\$3	\$0	\$3
Northern Rockies	5,393	\$4,935	\$5,518	\$1	\$1	\$2
Oak Bay	18,094	\$88,184	\$74,779	\$5	\$4	\$9
Oliver	4,928	\$43,212	\$10,804	\$9	\$2	\$11
Osoyoos	5,085	\$33,486	\$33,064	\$7	\$7	\$13
Parksville	12,514	\$92,838	\$38,271	\$7	\$3	\$10
Peachland	5,428	\$12,993	\$12,262	\$2	\$2	\$5
Pemberton	2,574	\$1,438	—	\$1		N/A
Penticton	37,035	\$440,704	\$162,905	\$12	\$4	\$16
Pitt Meadows	18,573	\$54,089	\$24,654	\$3	\$1	\$4
Port Alberni	17,678	\$84,478	\$42,707	\$5	\$2	\$7
Port Alice	805	\$5,629	\$6,440	\$7	\$8	\$15
Port Clements	282	\$1,873	\$1,671	\$7	\$6	\$13
Port Coquitlam	58,612	\$1,059,405	\$368,979	\$18	\$6	\$24
Port Edward	544	\$2,718	—	\$5		N/A
Port Hardy	4,132	\$32,897	\$43,603	\$8	\$11	\$19
Port McNeill	2,064	\$8,989	\$9,204	\$4	\$4	\$9
Port Moody	33,551	\$83,531	\$11,053	\$2	\$0	\$3
Pouce Coupe	792	\$868	\$936	\$1	\$1	\$2
Powell River	13,157	\$439,875	\$39,176	\$33	\$3	\$36
Prince George	65,510	\$485,971	\$273,295	\$7	\$4	\$12
Prince Rupert	12,220	\$69,901	\$9,659	\$6	\$1	\$7
Princeton	2,828	\$19,244	\$18,598	\$7	\$7	\$13

Municipality	Population 2016	STE 2019	PTE 2019	STE Per Capita	PTE Per Capita	Per Capita Total
Qualicum Beach	8,943	\$82,124	\$20,543	\$9	\$2	\$11
Queen Charlotte	852	\$1,747	\$51	\$2	\$0	\$2
Quesnel	23,146	\$94,315	\$11,989	\$4	\$1	\$5
Radium Hot Springs	776	\$9,320	\$6,040	\$12	\$8	\$20
Revelstoke	7,230	\$125,751	\$102,133	\$17	\$14	\$32
Richmond	216,288	\$2,724,320	\$575,914	\$13	\$3	\$15
Rossland	3,729	\$14,983	\$1,116	\$4	\$0	\$4
Saanich	119,229	\$1,649,726	\$879,769	\$14	\$7	\$21
Salmo	1,141	\$7,886	\$593	\$7	\$1	\$7
Salmon Arm	17,706	\$132,409	\$167,837	\$7	\$9	\$17
Sayward	341	N/A	\$0	\$0	\$0	\$0
Sechelt	10,200	\$105,450	—	\$10		N/A
Sicamous	3,166	\$22,042	\$10,503	\$7	\$3	\$10
Sidney	11,672	\$77,819	\$39,818	\$7	\$3	\$10
Silverton	10,313	\$480	\$0	\$0	\$0	\$0
Slocan	272	\$424	\$725	\$2	\$3	\$4
Smithers	10,607	\$70,856	\$37,909	\$7	\$4	\$10
Sooke	13,001	\$46,826	\$42,491	\$4	\$3	\$7
Spallumcheen	5,055	\$22,247	\$19,706	\$4	\$4	\$8
Sparwood	3,784	\$14,692	\$2,115	\$4	\$1	\$4
Squamish	19,512	\$57,974	\$12,761	\$3	\$1	\$4
Stewart	494	\$4,870	\$3,751	\$10	\$8	\$17
Summerland	11,615	\$155,328	\$27,903	\$13	\$2	\$16
Sun Peaks	616	N/A	\$0	\$0	\$0	\$0
Surrey	518,467	\$3,353,018	\$782,147	\$6	\$2	\$8
Tahsis	316	\$3,918	\$2,034	\$12	\$6	\$19
Taylor	1,373	\$9,475	\$5,043	\$7	\$4	\$11
Telkwa	1,350	\$27,293	\$13,158	\$20	\$10	\$30
Terrace	11,486	\$140,370	\$23,184	\$12	\$2	\$14
Tofino	1,932	\$24,392	\$13,493	\$13	\$7	\$20
Trail	7,709	\$97,187	\$0	\$13	\$0	\$13
Tumbler Ridge	1,987	\$11,466	\$0	\$6	\$0	\$6
Ucluelet	1,717	\$19,258	\$12,679	\$11	\$7	\$19
Valemount	1,020	\$5,082	\$3,015	\$5	\$3	\$8
Vancouver	675,218	\$8,808,083	\$0	\$13	\$0	\$13
Vanderhoof	4,439	\$109,071	\$93,374	\$25	\$21	\$46
Vernon	40,116	\$585,010	\$89,492	\$15	\$2	\$17
Victoria	92,141	\$1,921,386	\$640,554	\$21	\$7	\$28
View Royal	10,408	\$26,824	\$9,707	\$3	\$1	\$4
Warfield	1,729	N/A	\$0	\$0	\$0	\$0

Municipality	Population 2016	STE 2019	PTE 2019	STE Per Capita	PTE Per Capita	Per Capita Total
Wells	245	N/A	\$0	\$0	\$0	\$0
West Kelowna	32,655	\$227,991	\$61,799	\$7	\$2	\$9
West Vancouver	42,473	\$404,047	\$120,988	\$10	\$3	\$12
Whistler	11,854	\$39,554	\$29,739	\$3	\$3	\$6
White Rock	19,952	\$128,755	\$33,964	\$6	\$2	\$8
Williams Lake	10,832	\$284,125	\$45,691	\$26	\$4	\$30
Zeballos	107	N/A	\$0	\$0	\$0	\$0
Total		\$45,917,788.24	\$12,514,693			

We calculated that as much as \$45.9 million in potential tax revenue was forgone by municipalities as a result of STEs in 2019. The municipality with the highest estimated value of STEs is the City of Vancouver, with more than \$8.8 million. These values are of course related to property values, which is likely expected. The per capita value of STEs averaged across all municipalities where STEs were granted was \$9 (median \$7), with the largest being the City of Powell River with \$33 per capita being allocated towards STEs.

Municipalities allocated over \$12.5 million in PTEs in 2019. There was considerable variance in the value of PTEs granted, with the highest being the City of Delta, which allocated nearly \$1.3 million in PTEs in 2019. The average per capita value of PTEs for municipalities that granted them was \$4 (median \$3), with the largest being the Village of Granisle, which granted \$28 in PTEs for each of its 303 residents. While variation in populations, number of places of worship, municipal policies, and property values make comparison difficult, the average value of PTEs was \$100,118 for municipalities granting PTEs (for which data was available).

Combining STEs and PTEs, we estimate that the annual value of forgone taxes for places of worship in BC is \$58.4 million. The average per capita value of these forgone taxes amounts to roughly \$12 for each British Columbian. The highest per capita tax exemptions for places of worship in BC (PTEs and STEs combined) was the municipality of Vanderhoof, and amounted to \$46 per person.

We found ten municipalities that do not include places of worship, and therefore did not forgo any funds in the form of STEs or PTEs. These tended to be smaller villages and resorts, such as Anmore, Lions Bay, Sayward, and Jumbo Glacier, with an average population of 945. We were unable to locate the 2019 PTE values for 15 municipalities (9% of municipalities), and as such, no generalizations could be drawn from these municipalities, which range from small villages such as Alert Bay (population 489) to larger cities such as New Westminster (population 70,996) and Coquitlam (population 150,028). We are aware that a number of these municipalities do grant PTEs, but were unable locate disaggregated numbers in order to isolate only those PTEs going to places of worship. As a result, the actual total value of PTEs granted by municipalities very likely exceeds \$12.5 million.

In addition to the ten municipalities without places of worship, 10 municipalities reported granting \$0 in PTEs in 2019. While most of these municipalities were smaller villages with populations under 2,000 – such as Canal Flats, Keremeos, and New Denver – a number of larger municipalities also granted \$0 in PTEs in 2019, including Trail (population 7,709), Silverton (population 10,313), and Vancouver (population 675,218).

Table 2: PTEs Granted by BC Municipalities by Year

Year	PTEs Granted
2015	\$8,477,630
2016	\$8,967,748
2017	\$11,188,768
2018	\$11,533,143
2019	\$12,514,693

PTE values for the past five years were also gathered. It should be recognized that the number of municipalities for which data was available decreases over time, and similarly over this time, a number of other factors have influenced property values and tax rates. Growth trend in these values, as a result, cannot necessarily be extrapolated, nonetheless, there is a considerable upward trend that is observable between the value of PTEs granted in 2015 (\$8.5 million) and those granted in 2019 (\$12.5 million).

Discussion

Some of the issues and problems surrounding STEs and PTEs in BC are herein considered. We recognize that this represents a survey of only some of the shortcomings of current policies. Given the diversity of PTE policies (or lack thereof) in BC municipalities, a comprehensive survey of these policies is not possible at this time. Instead, some of the issues that persist across jurisdictions will be highlighted. Some of these concerns relate to both types of tax exemption, while others apply to either PTEs or STEs, owing to the nature of these exemptions. Where this is the case, these will be highlighted.

Public funds going to private clubs

The goal of tax exemptions is to support the work of groups and organizations that provide a public benefit. The *Community Charter*¹⁶ grants PTEs to organizations such as charities, nonprofits, hospitals, athletic associations, and assisted living homes. These potential recipients share the common feature of offering public benefits that are accessible to all members of the community.

¹⁶ Equally the *Vancouver Charter and Taxation (Rural Area) Act*, see Appendix.

The automatic application of STEs to places of worship assumes that the recipients provide a public benefit and that members of the general public are able to benefit from the services offered by those places of worship. As is illustrated in the example of the Exclusive Brethren (detailed below), this is not always the case – numerous places of worship operating as private clubs are automatically granted STEs. This lax approach to oversight and fiscal accountability is not a responsible policy. Underlying the current approach to STEs is the assumption that all places of worship are publicly accessible, yet this is not the case. At the very least, a responsible practice would be for governments to require the recipient of these generous tax exemptions to demonstrate that their services are publicly accessible and that they are not operating as a private club. The automatic application of STEs must be abolished.

In addition to providing a space for religious practices for their members, many places of worship offer charitable services, providing a benefit to the community at large, such as soup kitchens or subsidized child care services. Municipalities should be able to encourage this kind of beneficial work through the use of PTEs at their discretion. The onus must be on the recipient to demonstrate that the services provided are publicly available (and beneficial) in order to justify the receipt of a tax exemption.

Some places of worship offer charitable services, but only do so for their members or for co-religionists. Others make the receipt of their services contingent – requiring recipients to participate in religious rituals or education as a condition of receiving the charitable service. This type of practice should not be supported by a tax exemption, as the contingent service is a form of proselytising, marketing, or promotion for the place of worship or religion, rather than a public good. This type of contingent service excludes non-believers and those of other religions.



An example of this type of practice is the ‘Pray and Stay’ program that was run by St. Anne's Anglican Church in Parksville. After the City of Parksville cancelled its plans for a cold weather shelter, the Church set up a program where “overnight guests participate in a nightly prayer vigil, eat a hot meal and then curl up on a pew or donated cot until the next morning.”¹⁷ In 2019, St. Anne’s received a PTE of \$7,939.72 from the City.¹⁸ While some

¹⁷ CBC News. (2019, December 15). “‘Pray and Stay’: Vancouver Island church opens doors (and pews) to homeless.” Available at <https://www.cbc.ca/news/canada/british-columbia/pray-and-stay-vancouver-island-church-opens-doors-and-pews-to-homeless->

may consider St. Anne’s offer of shelter as laudable and the Church insisted that the requirement to participate in the religious service was minimal, the fact that this offer required recipients to participate in religious practices potentially excludes those of other religions and non-believers. A service is not publicly available if it is contingent on participation in a religious service.

Some religious sects, and by extension their places of worship, are by the very nature of their religious doctrines, exclusive only to members of those sects. An example, of one such sect is the Exclusive Brethren, also described as the Plymouth Brethren, an evangelical Christian sect. Many Exclusive Brethren follow a practice known as ‘the doctrine of separation,’ a practice whereby members of a group seek to protect themselves from the evils of the world by avoiding contact with people from outside their group.¹⁹ The Plymouth Brethren website describes their application of the doctrine, explaining that “we make a commitment to eat and drink only with those with whom we would celebrate the Lord’s Supper – that is the basis of our fellowship.” The site defines ‘the world’ – society outside of their community – as a “system of sin and lawlessness under the domination of Satan.”²⁰ Many members of this sect avoid television and other media, home school their children, and among other things avoid participating in politics.²¹

For example, a recent case before B.C. Labour Relations Board considered a crossing guard for the Abbotsford School District who is a member of the Plymouth Brethren Christian Church member who sought an exemption from joining the local Teamsters Union, a requirement of his job, on the basis of his belief in the doctrine of separation. The Board rejected his request for an exemption.²²

Religious groups, such as the Exclusive Brethren, are entirely within their right to separate themselves from the rest of society; however, these same groups receive STEs and PTEs. For example, the Parkview Gospel Hall, a Plymouth Brethren place of worship in Abbotsford, received \$4,400 in PTEs from the City of Abbotsford in 2019.²³ Across the province, places of worship associated with this sect received PTEs in 2019, including, for example the

[1.5395312?fbclid=IwAR0h_PRxpOkaT4thtelb1caC4OkIEbFo6bLiMLJnFEfMnQHmoZGEdwyqNAI](https://www.parkville.ca/sites/default/files/docs/city-hall/City%20of%20Parkville%202019%20Annual%20Report.pdf)
(retrieved February 17, 2021).

¹⁸ City of Parkville. (2020). “2019 annual report.” Available at

<http://www.parkville.ca/cms/wpattachments/wpID464atID9304.pdf> (retrieved February 17, 2021).

¹⁹ See for example Hinnells, J.R. (1984). *The Penguin dictionary of religions from Abraham to Zoroaster*. London, UK: Penguin Reference, p. 254.

²⁰ Plymouth Brethren Christian Church. (n.d.). “Who we are – FAQs: What is involved in the doctrine of separation?” Available at <https://www.plymouthbrethrenchristianchurch.org/who-we-are/faqs/#what-is-involved-in-the-doctrine-of-separation?> (retrieved February 17, 2021).

²¹ BBC. (2009). “Religions: Exclusive Brethren.” Available at https://www.bbc.co.uk/religion/religions/christianity/subdivisions/exclusivebrethren_1.shtml (retrieved February 17, 2021).

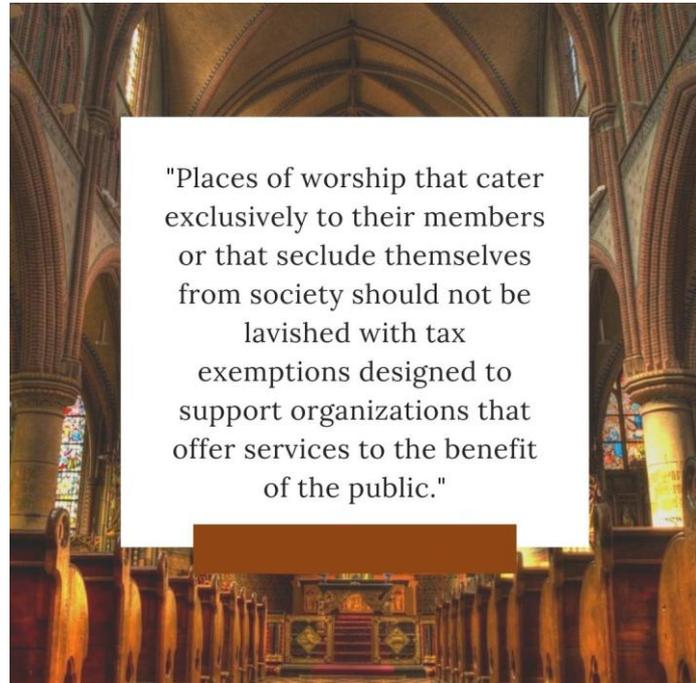
²² Lindsay, B. (2021, February 7). “Member of reclusive church can’t get out of joining crossing guard union, B.C. labour board says.” *CBC*. Available at <https://www.cbc.ca/news/canada/british-columbia/bc-labour-relations-crossing-guard-union-religious-exemption-1.5904039> (retrieved February 17, 2021).

²³ City of Abbotsford. (2020). “Annual report: Fiscal year ending December 31, 2019.” Available at <https://www.abbotsford.ca/sites/default/files/docs/city-hall/City%20of%20Abbotsford%202019%20Annual%20Report.pdf> (retrieved February 17, 2021), p.143.

Highway Gospel Hall in West Kelowna (\$1,619.41),²⁴ the Bakerview Gospel Chapel (\$3,452) and West Richmond Gospel Hall (\$8,869) in Richmond,²⁵ the North Surrey Gospel Hall (\$2,247) and the Fleetwood Gospel Hall (\$4,696) in Surrey,²⁶ and the Prince George Gospel Chapel (\$749.60) in Prince George.²⁷

Places of worship that cater exclusively to their members or that seclude themselves from society should not be lavished with tax exemptions designed to support organizations that offer services to the benefit of the public.

In order to ensure that tax exemption recipients provide services to the benefit of whole community, municipalities should implement public benefits tests for recipients. This is something a number of municipalities already do. However, such tests can only be applied to PTEs – this level of proper oversight is not possible with STEs. Again, a solution to this issue is to abolish STEs and make all tax exemptions permissive, allowing municipalities to use benefits tests in order to evaluate applications to ensure that the services of potential recipients are available to all members of the public.



A number of existing PTE policies include benefits tests which attempt to ensure exemptions are not going to private clubs. The City of Kelowna, among others, includes the following in their PTE policies/bylaws, noting that recipients

will provide benefits and accessibility to the residents for Kelowna. Specifically, members of the public, within the appropriate age range, are able to join a club or organization and participate in its activities for a

²⁴ City of West Kelowna. (2020). "City of West Kelowna – Annual report, 2019." Available at <https://secure.viewer.zmags.com/publication/9d14c72e#9d14c72e/36> (retrieved February 17, 2021), p. 35.

²⁵ City of Richmond. (2020). "2019 annual report: For the year ended December 31, 2019." Available at https://www.richmond.ca/_shared/assets/annualreport2019comp56398.pdf (retrieved February 17, 2021), p.63.

²⁶ City of Surrey. (2020). "2019 annual financial report: For the year ended December 31, 2019." Available at https://www.surrey.ca/sites/default/files/media/documents/2019_Annual_Financial_Report_WEB.pdf (retrieved February 17, 2021), p.94 and p.96.

²⁷ City of Prince George. (2020). "2019 annual report." Available at https://www.princegeorge.ca/City%20Hall/Documents/Finance/COPG_2019%20Annual%20Report%20%28WEB%29.pdf (retrieved February 17, 2021), p. 60.

nominal rate or fee. Kelowna residents must be the primary beneficiaries of the organization's services. The services provided on the property must be accessible to the public.²⁸

The City of Victoria PTE policy includes the following provisions, noting that:

(13) Services and activities should be equally available to all residents of the City.

(14) A recreation or community facility must be accessible by the public, and the activities carried out on the property must be enjoyed by a significant proportion of the general public.²⁹

Similar provisions can be found in the PTE policies of the City of Parksville.³⁰ The example of St. Anne's contingent and therefore restricted services, described above, demonstrates the need of benefits tests and the actual application of these tests.

Municipalities wishing to act responsibly with tax dollars must have measures in place to ensure that PTEs are only allocated to recipients whose services are available to all members of the public. Furthermore, municipalities should ensure that they conscientiously apply these benefit tests, otherwise the tests are rendered meaningless.

There is also the question of the impact of the tax dollars allocated to PTEs for places of worship. A number of studies have indicated that participation in religious services at places of worship is on the decline in Canada. For example, a PEW report noted that in 1986, 43% of Canadian aged 15 years or older attended religious services at least once a month, while in 2010, this figure fell to 27%.³¹ Similarly, a 2020 survey by the Evangelical Fellowship of Canada, quoted in *Faith Today* magazine, noted that only 11% of Canadians attend religious services weekly (for all religious traditions), and that this number was down from 30% in

²⁸ City of Kelowna. (August 2005). "Permissive Tax Exemption Policy." Resolution R840/17/10/16. Available at https://www.kelowna.ca/sites/files/1/docs/city-hall/policies/permissive_tax_exemption_-_policy_327.pdf (retrieved February 17, 2021), Section 6; and see for example Section 6, Town of Ladysmith. (August 2012). "Permissive Tax Exemption Policy." Resolution 2012-274. Available at <https://www.ladysmith.ca/documents/PTE%20Application%20Pkg.pdf> (retrieved February 17, 2021); and Section 6, City of West Kelowna. (June 2015). "Permissive Tax Exemption Policy." Available at <https://www.westkelownacity.ca/en/city-hall/resources/Documents/Permissive-Tax-Exemptions-Policy.pdf> (retrieved February 17, 2021).

²⁹ Section 5, City of Victoria. (May 2013). "Permissive tax exemption." Available at <https://www.victoria.ca/assets/Departments/Finance/Documents/property-tax-permissive-exemption.pdf> (retrieved February 17, 2021).

³⁰ City of Parksville. (September 2004). "Permissive Taxation Exemption Applications." Policy No. 6.15, Resolution No. 04-285. Most recent revision, February 5, 2018. Available at <http://www.parksville.ca/cms/wpattachments/wpID475atID8247.pdf> (retrieved February 17, 2021), Sections 13 and 14.

³¹ A General Social Surveys cited by Wormald, B. (2013, June 27). "Canada's changing religious landscape." *Pew Research Center*. Available at https://www.pewforum.org/2013/06/27/canadas-changing-religious-landscape/#_ftnref6 (retrieved February 17, 2021); see also Lipka, M. (2019, July 1). "5 facts about religion in Canada." *Pew Research Center*. Available at <https://www.pewresearch.org/fact-tank/2019/07/01/5-facts-about-religion-in-canada/> (retrieved February 17, 2021).

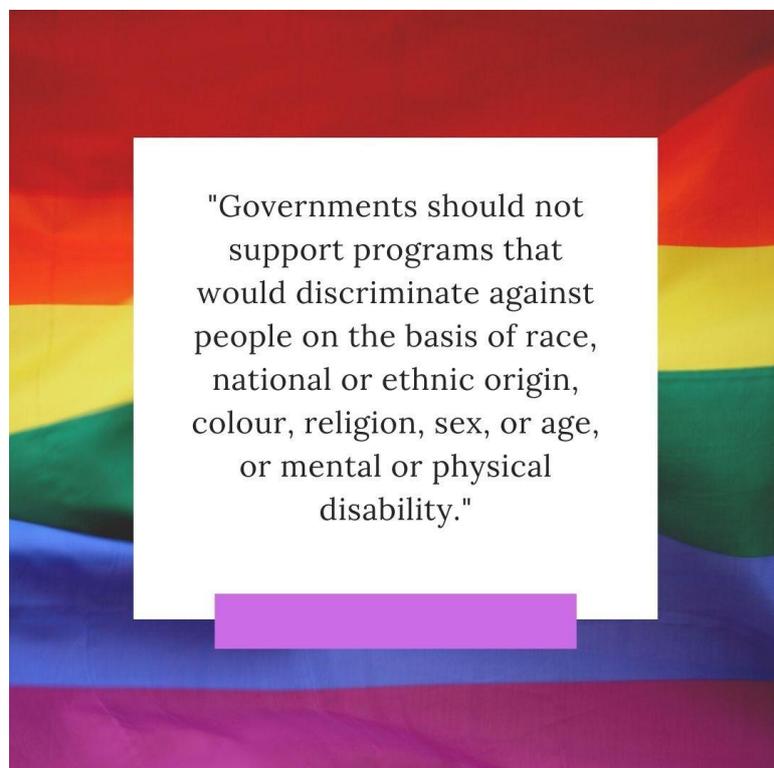
1996 and 67% in 1946.³²

Declining attendance and congregation sizes means that tax exemptions for places of worship are going to support a diminishing number of parishioners. Setting aside the question of whether the place of worship provides a benefit to the community at large, diminishing attendance raises the question of whether or not the funds allocated to tax exemptions could have a greater impact if otherwise allocated. Put another way, municipalities need to ask the question whether they could get ‘more bang for their buck’ if the money were used to support another organization or cause, one which would benefit a greater number of people?

Public funds going to groups that exclude and discriminate

While most places of worship and the religious communities supporting them are open and welcoming, some are not. Automatically granting STEs to *all* places of worship results in tax exemptions being granted to organizations which intentionally exclude people from participation. Disbursing PTEs without rigorous benefits tests which include provisions relating to discrimination, risks supporting groups that discriminate.

The *Canadian Charter of Rights and Freedoms*, which applies to the actions of all levels of government, establishes that “every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination.”³³ Governments should not support programs that would discriminate against people on the basis of race, national or ethnic origin, colour, religion, sex, or age, or mental or physical disability.



³² Hiemstra, R. (2020, January 8). “Not Christian anymore.” Available at <https://www.faithtoday.ca/Magazines/2020-Jan-Feb/Not-Christian-anymore> (retrieved February 17, 2021).

³³ *Canadian Charter of Rights and Freedoms*, 15(1).

A private club may be within its rights to restrict membership and participation in a discriminatory fashion; this should not be the case for government. When a government provides organizations STEs or PTEs, it is supporting those organizations, and government should only support groups that adhere to the *Charter*, otherwise the *Charter* would be made meaningless, as a government could discriminate by adding degrees of separation between itself and the discrimination.

It is unfortunately not hard to imagine a place of worship that might refuse to rent out its hall to members of the LGBTQ+ community. The 2005 BC Human Rights Tribunal case *Smith and Chymyshyn v. Knights of Columbus and others*,³⁴ where a couple had their rental agreement for a hall which was operated and maintained by the Knights of Columbus (Knights) cancelled when the Knights learned that the couple was same sex. The Knights of Columbus is a Catholic men's organization, and the hall in question was located on land owned by the Archdiocese of Vancouver, alongside the Our Lady of Lourdes Parish (Catholic) Church and a Catholic School in the City of Coquitlam. The Knights apparently "granted priority to Catholic groups to rent the hall, but also rented broadly to community groups."³⁵

In this case, the Knights conceded that they had indeed discriminated against the couple, but argued that "they had a bona fide and reasonably justifiable reason for refusing the rental, based on their constitutional right of freedom of conscience and religion."³⁶ The BC Human Rights Code (Section 8(1)) does stipulate that:

- (1) A person must not, without a bona fide and reasonable justification,
 - (a) deny to a person or class of persons any accommodation, service or facility customarily available to the public, or
 - (b) discriminate against a person or class of persons regarding any accommodation, service or facility customarily available to the public because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, or age of that person or class of persons.³⁷

And numerous other clauses of the Code include the 'bona fide and reasonable justification' proviso. The ruling of the BC Human Rights Tribunal was mixed. The Tribunal ruled "that a

³⁴ *Smith and Chymyshyn v. Knights of Columbus and others*, 2005 BCHRT 544, available at https://web.archive.org/web/20130513122736/http://www.bchrt.bc.ca/decisions/2005/pdf/Smith_and_Chymyshyn_v_Knights_of_Columbus_and_others_2005_BCHRT_544.pdf (retrieved February 17, 2021).

³⁵ Boonstra, K., & Benson, I. (2006, February 23). "The scope of protection for religious dissent regarding same-sex marriage?" *LexView*. Available at <https://www.cardus.ca/article/lexview-54-0-the-scope-of-protection-for-religious-dissent-regarding-same-sex-marriage/> (retrieved February 17, 2021); and see St. Clare of Assisi Parish. (n.d.). "Parish life at St. Clare's – Knights of Columbus." Available at <https://stclare.ca/parish-life/service/knights/> (retrieved February 17, 2021).

³⁶ Boonstra & Benson 2006.

³⁷ *Human Rights Code*, RSBC 1996, c 210, Section 8(1). Available at https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96210_01#section13 (retrieved February 17, 2021).

person cannot be compelled by the Code to act in a manner that is in conflict with a core religious belief. As such, the Knights were justified in refusing the rental.”³⁸ The Tribunal did find that the Knights had discriminated against the complainants on the basis of their sexual orientation contrary to the Code (Section 8), and concluded that “while the Knights need not have rented the hall to the Complainants, they were required to accommodate the Complainants to the point of undue hardship.”³⁹

Ultimately the complainants, Tracey Smith and Deborah Chymyshyn, were compensated for lost and excess marriage costs (\$444.59) and awarded \$1,000 each for “injury to their dignity, feelings and self-respect.”⁴⁰

While as a private club the Knights were within their rights to adopt discriminatory renting practices, this does raise the question as to how this might affect any STEs or PTEs on the property in question. A Catholic Church, Our Lady of Lourdes, shares the property with the Knights’ hall, and this church is automatically granted an STE under current statutes. The City of Coquitlam’s 2019 annual report did not list the values of PTEs allocated to places of worship,⁴¹ though a number of documents note that 30 places of worship received PTEs from the city in 2019.⁴² The city’s annual reports for the years during Smith and Chymyshyn’s case record PTEs being granted five properties owned by the Roman Catholic Archbishop of Vancouver amounting to \$72,481 in 2004, and \$75,648 in 2005.⁴³

While the Tribunal found that the provisos in the *Human Rights Code* that allow for discrimination given a ‘bona fide and reasonable justification’ applied to the Knights, and by extension, other individuals and organizations seeking to discriminate on similar grounds, these provisos do not apply to government, which must adhere to the *Charter*. As such, organizations that discriminate in this way, or in other ways that contravene the *Charter*, should not receive a subsidy from the state. A tax exemption represents just such a subsidy.

³⁸ Boonstra & Benson 2006.

³⁹ *Ibid.*

⁴⁰ *Ibid.*; see also Valpy, M. (2005, February 2). “The Knights and the lesbians: Exhibit A in same-sex uproar.” *The Globe and Mail*. Available at <https://www.theglobeandmail.com/news/national/the-knights-and-the-lesbians-exhibit-a-in-same-sex-uproar/article975014/> (retrieved February 17, 2021); and see Matas, R. (2005, November 30). “Knights entitled to deny lesbians, tribunal says.” *The Globe and Mail*. Available at <https://www.theglobeandmail.com/news/national/knights-entitled-to-deny-lesbians-tribunal-says/article985703/> (retrieved February 17, 2021).

⁴¹ The City of Coquitlam discontinued the practice of reporting PTE values for individual places of worship in its annual reports in 2011. See City of Coquitlam. (2020). “Annual report 2019.” Available at <https://www.coquitlam.ca/DocumentCenter/View/2263/Coquitlam-Annual-Report-2019> (retrieved February 17, 2021), p. 110; and see City of Coquitlam. (2012). “2011 Annual Report.” p. 76; and City of Coquitlam. (2011). “2010 Annual Report.” p. 68.

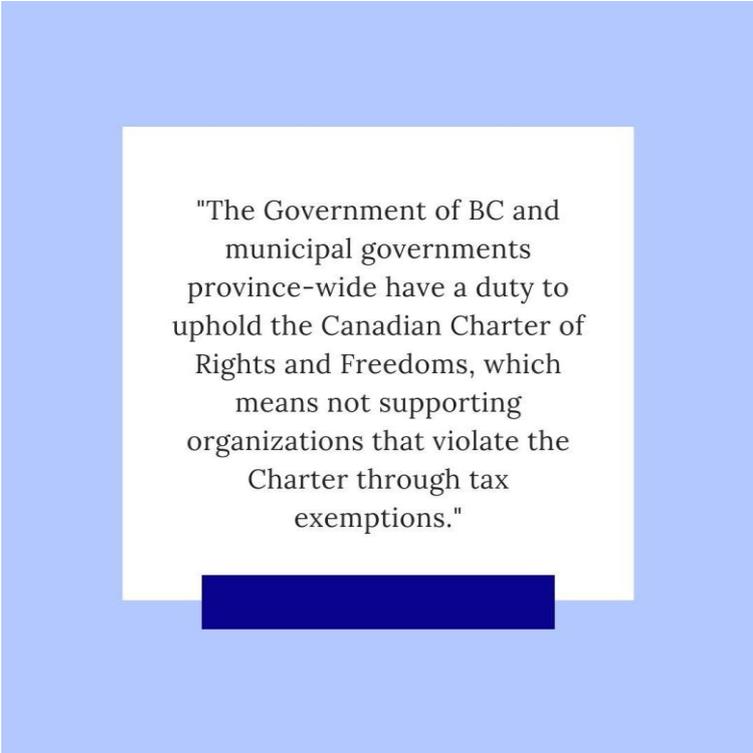
⁴² See for example City of Coquitlam. (2019, October 11). “Taxation Exemption Amendment Bylaw, 5012, 2019.” File 09-3900-20/5012/1, Doc# 3445051.v1. Available at https://coquitlam.ca.granicus.com/MetaViewer.php?view_id=2&clip_id=1465&meta_id=30219 (retrieved February 17, 2021); and see City of Coquitlam. (2019, February 26). “Fourth and final reading of City of Coquitlam 2019 Five-Year Financial Plan Bylaw.” File 09-3900-20/4952/1, Doc# 3251300.va. Available at https://coquitlam.ca.granicus.com/MetaViewer.php?view_id=2&event_id=338&meta_id=24493 (retrieved February 17, 2021).

⁴³ See City of Coquitlam. (2005). “City of Coquitlam annual report 2004,” p.73; City of Coquitlam. (2006). “City of Coquitlam Annual Report 2005,” p.73.

An example of this principle in action is evident in recent changes to Canada's Summer Jobs program. In 2018, the federal Liberal government updated rules concerning which organizations could receive funds from its youth summer job grant program. After some back and forth, the government adopted rules "requiring applicants to declare... that the organization does not actively work to infringe upon human rights, including access to abortion."⁴⁴ On the basis of these rules, the government denied 26 applications in 2019.⁴⁵ The principle behind this rule is that the government should not fund organizations that are actively working to undermine core *Charter* rights. On this same basis, supporting organizations with discriminatory practices through tax exemptions should be prohibited.

The automatic nature of STEs means that the government has no ability to determine whether or not the recipients actively work to infringe upon human rights, and as such, it is certain that places of worship with discriminatory practices are currently receiving tax exemptions in BC. In order to uphold its commitment to the *Charter*, the BC government should end the practice of automatically granting STEs.

Furthermore, any reasonable benefits test for PTEs should include the basic question as to whether or not the applicant discriminates against people on the basis of race, national or ethnic origin, colour, religion, sex, or age, or mental or physical disability. It is important that this question be explicitly asked in a benefits test rather than assuming that the absence of a human rights complaint implies an absence of discrimination. Tacit discrimination could otherwise be overlooked.



"The Government of BC and municipal governments province-wide have a duty to uphold the Canadian Charter of Rights and Freedoms, which means not supporting organizations that violate the Charter through tax exemptions."

The case of *Smith and Chymyshyn v. Knights of Columbus* is again instructive. In this case, the two women were "unaware that the hall was operated by a Catholic organization and said they would not have rented the hall if they had known."⁴⁶ This is likely the experience of

⁴⁴ Smith, J. (2019, August 29). "Trudeau Liberals continue to ask applicants for summer job funds their view on abortion." *National Post*. Available at <https://nationalpost.com/news/canada/feds-denied-summer-job-grants-to-26-groups-over-abortion-rights-issue> (retrieved February 17, 2021); and see Global News. (2019, August 29). "26 groups denied Canada Summer Jobs grants over abortion stance." Available at <https://globalnews.ca/news/5831085/canada-summer-jobs-abortion/> (retrieved February 17, 2021).

⁴⁵ Global News 2019; and see Smith 2019.

⁴⁶ Matas 2005.

other LGBTQ+ people who avoid accessing, booking, or trying to book spaces operated by religious organizations with discriminatory beliefs. In these situations, the discrimination is tacit, and does not result in cases being brought to the Human Rights Tribunal. However, this does not suggest that places of worship receiving tax exemptions do not restrict access to their spaces in a discriminatory fashion. A benefits test is needed to ensure that this in fact does not occur.

Applicants for PTEs should reveal details about their practices and should be denied a tax exemption if they are found to be discriminatory. The Government of BC and municipal governments province-wide have a duty to uphold the *Canadian Charter of Rights and Freedoms*, which means not supporting organizations that violate the *Charter* through tax exemptions.

Public funds going to groups that break the law and undermine public health and safety

Implicit within the automatic nature of STEs and the generous essence of PTEs is the assumption that places of worship provide a public good. The previous two sections describe how access to the potential public good offered by places of worship could be restricted, either exclusively to their members or in a discriminatory fashion. However, it is also the case that the actions taken by a place of worship could harm society, break the law, or imperil lives. This is particularly relevant during the ongoing COVID-19 pandemic.



The potential for religious gatherings to become 'super-spreader events' is very real, with religious gatherings linked to outbreaks of COVID-19 globally. In South Korea, for example, the Shincheonji Church of Jesus in Seoul was at the centre of South Korea's first outbreak of COVID-19. At one point, this Church was linked to 36% of cases in the country.⁴⁷ The list of deadly outbreaks linked to gatherings at places of worship is disturbingly long and growing.⁴⁸

⁴⁷ BBC News. (2021, January 13). "Shincheonji: Korean sect leader found not guilty of breaking virus law." Available at <https://www.bbc.com/news/world-asia-55642653> (retrieved February 17, 2021); see also

Religious gatherings present a particularly high risk of spreading COVID-19 for a number of reasons. The American Medical Association (AMA) notes that religious services include five key risk factors:

- **Enclosed spaces.** Clusters of COVID-19 infections are linked mostly to indoor settings. Even if improved ventilation may reduce transmission, there is no scientific consensus on standards for controlling COVID-19's spread in an indoor environment.
- **Large groups.** On average, larger groups contain more people who are infected and more people who can potentially become infected.
- **Close proximity to others.** The smallest SARS-CoV-2 droplets can remain airborne and travel farther than six feet. The scientific community does not

Osborne, S. (2020, June 24). "Super-spreader church at centre of South Korea's coronavirus outbreak sued for £66m." *The Independent*. Available at <https://www.independent.co.uk/news/world/asia/coronavirus-super-spreader-church-south-korea-daegu-shincheonji-jesus-a9582951.html> (retrieved February 17, 2021); and see Shin, Y., Berkowitz, B., & Kim, Min Joo. (2020, March 25). "How a South Korean church helped fuel the spread of the coronavirus." *The Washington Post*. Available at <https://www.washingtonpost.com/graphics/2020/world/coronavirus-south-korea-church/> (retrieved February 17, 2021).

- ⁴⁸ See for example Lisinski, C. (2020, December 2). "Houses of worship have become COVID super-spreaders in Massachusetts." *NBC Boston*. Available at <https://www.nbcboston.com/news/local/houses-of-worship-have-become-covid-super-spreaders-in-massachusetts/2246099/> (retrieved February 15, 2021); Kuznitz, A. (2020, November 4). "More COVID-19 deaths linked to super-spreader events at Charlotte church." *The Charlotte Observer*. Available at <https://www.charlotteobserver.com/news/coronavirus/article246965397.html> (retrieved February 15, 2021); La Grassa, J. (2020, October 30). "Blenheim church outbreak an example of 'quintessential super spreader event.'" *CBC News*. Available at <https://www.cbc.ca/news/canada/windsor/covid-19-church-spreader-event-1.5783090> (retrieved February 15, 2021); Alsharif, A., & Almasy, S. (2020, October 22). "Nearly 50 people contracted coronavirus after fellowship event at a small church in Maine." *CNN*. Available at <https://www.cnn.com/2020/10/22/us/maine-church-covid-19-outbreak/index.html> (retrieved February 15, 2021); McKeiver, D. (2021, January 3). "Hundreds pack NC church prompting fears of 'super-spreader' event." *CBC17*. Available at <https://www.cbs17.com/news/hundreds-pack-church-prompting-fears-of-super-spreader-event/> (retrieved February 15, 2021); Al Jazeera. (2020 March 18). "Made in Malaysia: How mosque event spread virus to SE Asia." Available at <https://www.aljazeera.com/news/2020/3/18/made-in-malaysia-how-mosque-event-spread-virus-to-se-asia> (retrieved February 15, 2021); Lozinski, P. (2020, October 8). "Mayor, northern chief calling for charges against organizers of 'superspreader' event." *Prince Albert Daily Herald*. Available at <https://paherald.sk.ca/2020/10/08/mayor-northern-chief-calling-for-charges-against-organizers-of-superspreader-event/> (retrieved February 15, 2021); Epp, C. (2020, May 10). "I would do anything for a do-over": Calgary church hopes others learn from their tragic COVID-19 experience." *CTV News*. Available at <https://calgary.ctvnews.ca/i-would-do-anything-for-a-do-over-calgary-church-hopes-others-learn-from-their-tragic-covid-19-experience-1.4933461> (retrieved February 15, 2021); Smitha, T.K. (2020, August 12). "Why is Tirupati Temple not being shut down, despite becoming a hotspot?" *The Quint*. Available at <https://www.thequint.com/coronavirus/hotspot-tirumala-tirupati-temple-will-not-shut-down-venkateswara-andhra-pradesh-coronavirus-staff-covid> (retrieved February 15, 2021); Sengar, S. (2020, August 11). "Tablighi Jamaat, Tirupati Tirumala Temple & other religious places that turned super-spreaders." *India Times*. Available at <https://www.indiatimes.com/news/india/tablighi-jamaat-tirupati-tirumala-temple-religious-places-that-turned-super-spreaders-520088.html> (retrieved February 15, 2021); Rosenberg, D.E. (2020, October 12). "The government can't save the ultra orthodox Jews from COVID-19. Religious leaders can." *Foreign Policy*. Available at <https://foreignpolicy.com/2020/10/12/the-government-cant-save-ultra-orthodox-jews-from-covid-19-religious-leaders-can/> (retrieved February 15, 2021); and see Phririart, F. *et al.* (2020, June). "Outbreak investigation of coronavirus disease (COVID-19) among Islamic missionaries in southern Thailand, April 2020." *Outbreak, Surveillance, Investigation & Response (OSIR) Journal*, 13:2, 48-54.

agree upon what is a ‘safe distance,’ but standing near an infectious person is riskier than standing farther away.

- **Long duration of exposure and staying in one place.** The amount of virus a person is exposed to can influence the chance of infection and the severity; consequently, staying in one place for a longer time creates a higher risk of infection.
- **Loud talking and singing.** Loud speech and singing expel significantly more oral fluid droplets than normal talking. The droplets can remain in the air for eight to 14 minutes before evaporating.⁴⁹

Experts also note inconsistent mask wearing in places of worship, particularly when individuals are singing.⁵⁰ Furthermore, older people are particularly at risk, and as Dr. William Schaffner, an infectious disease expert at the Vanderbilt University School of Medicine in Tennessee explained to Healthline, as “congregations are over-represented by older persons...you have a relatively high-risk group in very close association for prolonged periods of time, exhaling very vigorously. It’s tailor-made for the transmission of the COVID virus.”⁵¹

Given these risks and the current state of the pandemic, the Government of BC’s COVID-19 restrictions, include restrictions on religious gatherings and worship service. As of February 8, 2021, BC’s COVID-19 restrictions include the following:

In-person religious gatherings and worship services of any size are prohibited.

- You must not attend a service at a church, synagogue, mosque, gurdwara, temple or other place of worship.
- Religious services can continue using remote or virtual attendance options, like Zoom or Skype.

You can still visit your place of worship for individual activities such as guidance from spiritual leaders, contemplation or personal prayer.

Religious leaders may attend the home of a member of their religious community to provide religious services to the occupant.⁵²

⁴⁹ Henry, T.A. (2020, December 7). “5 reasons why religious services pose high risk of COVID-19 spread.” *American Medical Association*. Available at <https://www.ama-assn.org/delivering-care/public-health/5-reasons-why-religious-services-pose-high-risk-covid-19-spread> (retrieved February 15, 2021); see also AMA amicus filing, Whatley, J.R. Jr., Kallas, E.M., Quillen, H.C. (2020, November 19). “Motion for leave to file brief as *amici curiae* and brief of the American Medical Association and the Medical Society of the State of New York as *amici curiae* in support of the respondent.” No. 20A90. Available at https://www.supremecourt.gov/DocketPDF/20/20A90/161168/20201119102026299_20A90acTheAmericanMedicalAssociation.pdf (retrieved February 15, 2021).

⁵⁰ See for example La Grassa 2020.

⁵¹ Healthline. (n.d.). “Indoor church services are COVID-19 hot spots: Here’s why.” Available at <https://www.healthline.com/health-news/indoor-church-services-are-covid-19-hot-spots-heres-why> (retrieved February 15, 2021).

⁵² Government of BC. (2021, February 8). “Province-wide restrictions: Religious gatherings and worship services.” Available at <https://www2.gov.bc.ca/gov/content/safety/emergency-preparedness-response-recovery/covid-19-provincial-support/restrictions> (retrieved February 12, 2021).

Prohibitions on and regulations pertaining to religious gatherings have been in place in various forms for months. These regulations have been “made by the Provincial Health Officer (PHO) under the Public Health Act and others are made under the Emergency Program Act (EPA).”⁵³ These regulations have been implemented to help stop the spread of the COVID-19 pandemic, which as of February 11, 2021 had claimed the lives of 1,278 people in BC,⁵⁴ 21,088 people across Canada,⁵⁵ and 2,360,288 globally.⁵⁶

As BC’s Provincial Health Officer, Dr. Bonnie Henry, noted in response to a legal decision relating to challenge to the provinces health orders as they pertain to places of worship (explored below),

Public health orders are one of many tools we use to protect the health of the public in B.C. They are ones that we use judiciously and only as far as necessary. Based on the science and evidence, I put public health orders in place to protect faith leaders, their congregations and the communities in which they worship. These are legal orders that apply to everyone in our province, and most churches are following them.⁵⁷

Despite the elevated risks of spreading COVID-19 during religious worship, a number of places of worship across BC are actively and knowingly violating regulations designed to keep people safe. These include the following places of worship:

- The Langley Riverside Calvary Chapel that was granted \$11,997 in PTEs from the Township of Langley in 2019, and which has twice been fined \$2,300 for violating COVID-19 regulations.⁵⁸
- The Immanuel Covenant Reformed Church that was granted \$5,463 in PTEs from the City of Abbotsford in 2019 and which has openly defied COVID-19 regulations.⁵⁹
- The Oaklands Bible Chapel that was granted \$4,257 in PTEs from the City of Victoria in 2019, and which is currently being investigated for violating COVID-19 regulations.⁶⁰

⁵³ *Ibid.*

⁵⁴ Government of BC. (2021, February 11). “Joint statement on B.C.’s COVID-19 response, latest updates.” Available at <https://news.gov.bc.ca/releases/2021HLTH0014-000258> (retrieved February 12, 2021).

⁵⁵ Government of Canada. (2021, February 12). “Coronavirus disease 2019 (COVID-19): Epidemiology update.” Available at <https://health-infobase.canada.ca/covid-19/epidemiological-summary-covid-19-cases.html> (retrieved February 12, 2021).

⁵⁶ World Health Organization. (2021, February 11). “WHO Coronavirus disease (COVID-19) dashboard.” Available at <https://covid19.who.int/> (accessed February 12, 2021).

⁵⁷ Government of British Columbia. (2021, February 17). “Provincial health officer’s statement on court decision.” Available at <https://news.gov.bc.ca/releases/2021HLTH0036-000285> (retrieved February 17, 2021).

⁵⁸ See Township of Langley 2020:31; and Little 2021.

⁵⁹ See City of Abbotsford 2020:143; and see Claxton, M. (2021, February 12). “Lawyers spar over injunction against Fraser Valley churches defying COVID health orders.” *Nelson Star*. Available at <https://www.nelsonstar.com/news/lawyers-spar-over-injunction-against-fraser-valley-churches-defying-covid-health-orders/> (retrieved February 15, 2021).

⁶⁰ See City of Victoria (2020). “City of Victoria, British Columbia, annual report, year ending December 31, 2019.” Available at <https://www.victoria.ca/assets/City~Hall/Documents/AR%202019%20->

While only these three places of worship could be confirmed as receiving PTEs in 2019, there exists a very strong likelihood that any place of worship violating COVID-19 regulations has been the beneficiary of a STE.

A number of other places of worship have banded together and are currently contesting the fines they have been levied for violating COVID-19 regulations and the regulations prohibiting religious gatherings themselves.⁶¹ The list of complainants in this case includes the aforementioned Langley Riverside Calvary Chapel and Immanuel Covenant Reformed Church, a number of named individuals, and

- The Free Grace Baptist Church (Chilliwack).
- The Free Reformed Church of Chilliwack (Chilliwack).
- The Valley Heights Community Church (Chilliwack).
- The Kelowna Harvest Fellowship (Kelowna).
- The 100 Mile House Baptist Church (100 Mile House).⁶²

News stories in mid-December 2020 reported that the Chilliwack RCMP “had issued \$18,400 worth of public health order violation tickets to representatives of three unnamed ‘places of worship.’”⁶³ It is safe to assume that the three places of worship in Chilliwack joining this case have been issued fines for violating COVID-19 regulations, though we were unable to confirm the specifics.

For its part, the Government of BC recently sought an “injunction to allow police to bar or potentially arrest people from gathering in Langley’s Riverside Calvary Chapel, Immanuel Covenant Reformed Church in Abbotsford, and the Free Reformed Church of Chilliwack.”⁶⁴ As of the time of writing, this case is before the courts.

Rather than attempting to parse all of the arguments and issues that will likely be brought up in this case, it is valuable, for the purposes of this report, to consider the issue from the perspective of tax exemptions. Here, places of worship actively campaigning for a right to violate regulations that have been put in place to help stop the spread of a deadly pandemic.

[10Sep2020%20DIGITAL.pdf](#) (retrieved February 15, 2021); and Pescod, N., & Nesbit, B. (2020, December 22). “Police ‘investigating’ after Victoria church defies COVID-19 gathering restrictions.” *CHEK News*. Available at <https://www.cheknews.ca/police-investigating-after-victoria-church-defies-covid-19-gathering-restrictions-728230/> (retrieved February 15, 2021).

⁶¹ See for example Crawford, T. (2020, December 17). “COVID-19: Civil rights groups please with Dr. Bonnie Henry to allow religious services.” *Vancouver Sun*. Available at <https://vancouver.sun.com/news/covid-19-civil-rights-groups-plead-with-dr-bonnie-henry-to-allow-religious-services?fbclid=IwAR3onfMRw8c2WwtAAAdHGCuaT6Y5kjq5H0nHiwjoKOnHIRRxY7qGea-V0FQ> (retrieved February 15, 2021); and see Little 2021.

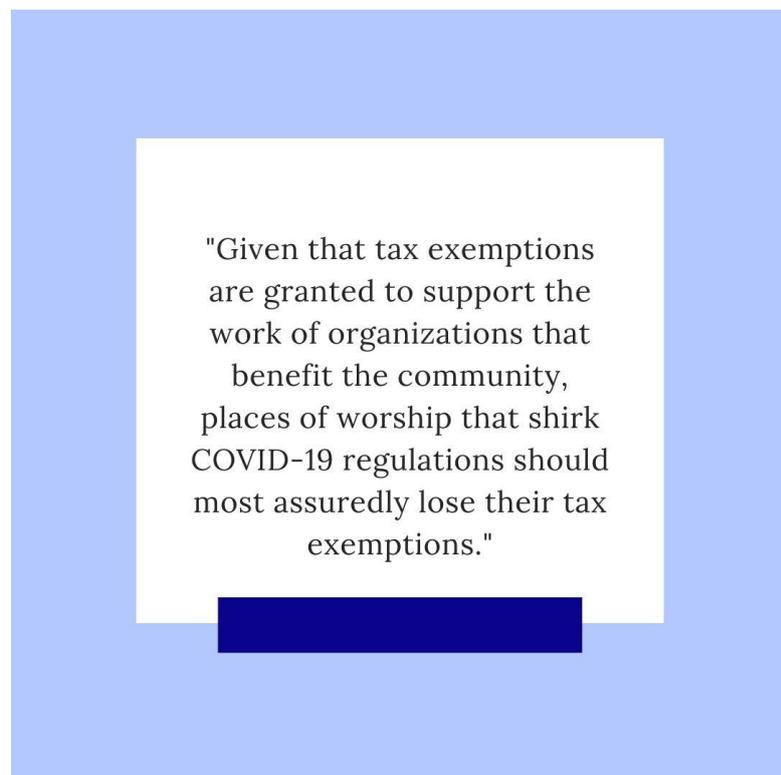
⁶² Justice Centre. (2021, January 8). “Justice Centre to defend numerous individuals and faith communities issued \$2300 tickets under BC public health orders.” Available at <https://www.jccf.ca/justice-centre-to-defend-numerous-individuals-and-faith-communities-issued-2300-tickets-under-bc-public-health-orders/> (retrieved February 15, 2021).

⁶³ Wood, G. (2020, December 21). “Churches breaking COVID-19 rules still get tax breaks.” *Times Colonist*. Available at <https://www.timescolonist.com/covid-19/churches-breaking-covid-19-rules-still-get-government-tax-breaks-1.24258550> (retrieved February 15, 2021).

⁶⁴ Claxton 2021.

It seems unlikely that the courts will find the petitioners arguments that the prohibition of in-person religious gatherings infringes on their right to gather for religious worship,⁶⁵ when this right is balanced against the right to life, liberty and security on of all members of society. This appears to be an obvious case of a “reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society”⁶⁶, particularly given that reasonable alternatives, such as online services, exist. It is also unlikely that the petitioners will succeed in overturning all of the government’s COVID-19 restrictions, and that at best they can hope to carve out a narrowly defined religious exemption.

In this unlikely scenario, these places of worship will have succeeded in avoiding legal repercussions and fines for their violation of COVID-19 regulations, but the question of whether or not their actions are in the public interest will remain. Because COVID-19 regulations will continue to be in place, and because the intention and design of these regulations is keep the public safe and forestall the spread of the pandemic, contraventions of those regulations, whether illicit or permitted under a



hypothetical religious worship exemption, would still have the effect of undermining critical efforts to save lives and to combat the pandemic. Municipalities, as well as the provincial government, need to consider whether or not they want to continue to grant tax exemptions to places of worship that are actively and knowingly contravening rule designed to protect the public. Given that tax exemptions are granted to support the work of organizations that benefit the community, places of worship that shirk COVID-19 regulations should most assuredly lose their tax exemptions.

⁶⁵ Petitioners claim, cited by *Ibid.*

⁶⁶ *Canadian Charter of Rights and Freedoms*, Section 1.

Tax encroachment

The *Community Charter*, *Vancouver Charter* and *Taxation (Rural Area) Act* (see Appendix) automatically grant STEs to places of worship without any input from a municipality. In 2019, this accounted for approximately \$45.9 million in funds that municipalities were not able to collect (see Table 1). As legislation, such as the *Community Charter*, outline only a narrow range of revenue sources for municipalities, automatic exemptions like STEs represent a significant encroachment on municipalities that are already limited in their sources of revenue. Municipalities are required to acquire these funds elsewhere, resulting in higher taxes for tax payers.

In many jurisdictions, the monetary value of these exemptions is considerable, and can represent a significant percentage of a municipal budget. While municipalities have no control over STEs, recognizing the potential drain that PTEs could represent on municipal budgets, a number of municipalities have adopted policies that limit the percentage of a municipal budget that PTEs may comprise.



For example, the District of North Vancouver caps PTEs (under Section 224 of the *Community Charter*) at 0.6% of the tax levy.⁶⁷ The City of Victoria's PTE policy stipulates that "permissive tax exemptions approved in the current year for the subsequent tax year will not exceed 1.6% of the current year's total budgeted property tax requisition."⁶⁸ Since 2014, the City of Parksville has been working to reduce the percentage of its annual budget allocation that are PTEs, and its policy states that "over a period of 10 years, beginning in 2014, permissive tax exemptions will be reduced from the current 2.5% annual budget allocation to a maximum 1.67% annual budget allocation."⁶⁹

⁶⁷ District of North Vancouver (1970). "Taxation by Council Guidelines." Available at <https://www.dnv.org/sites/default/files/edocs/permissive-tax-exemption-policy.pdf> (retrieved February 17, 2021).

⁶⁸ City of Victoria 2013: Section 5.

⁶⁹ City of Parksville 2004: Section 5.

PTEs are, as noted in Victoria’s PTE policy, “similar in effect to a cash grant, and therefore is subject to budget considerations.”⁷⁰ When a municipality grants a PTE, or has recipients of STEs within its jurisdictions, the funds that these exemptions represent constitute money that must be found elsewhere. A breakdown of the values of PTEs in each jurisdiction, reveals that they amount to, on average, \$4 per person, but the range is considerable – from \$0 in jurisdictions without PTEs or places of worship, to as high as \$28 per person in the Village of Granisle. The Municipality of Vanderhoof was a close second with \$21 in PTEs per person.

When a municipality does not collect taxes from a place of worship, these taxes must collect these taxes elsewhere. This has the effect of increasing taxation for the general public. Given this fact and the requirements of sound fiscal management, municipalities have a responsibility to ensure that the process for granting PTEs is transparent, equitable, and that PTEs are granted to recipients that provide benefit to the public.

Municipal government autonomy

Because they are imposed automatically, municipal councils have no say in the size and application of STEs. Given the appreciable value of STEs, this represents a considerable loss of autonomy on the part of municipal governments, a level of government that is already severely limited fiscally. Municipal councils are usually best situated to decide which tax exemptions will most benefit their communities, should be given the flexibility to make these decisions, rather than having them automatically imposed by a higher level of government.

The ability to make decisions as to how and to whom tax exemptions are allocated is an important component of ensuring responsible and equitable disbursement of tax funds, and should have the ability to prioritize. Municipalities have a duty to provide proper oversight on any recipient of a tax exemption, but can only fulfill this responsibility when able to make decisions. The automatic nature of STEs results in municipalities having zero oversight as to how these funds are allocated. A solution to this problem would be the abolition STEs and to have all tax exemptions treated as PTEs.

⁷⁰ City of Victoria 2013: Section 8; see also City of Parksville 2004: Section 9.

Not all recipients are treated the same

There are a number of ways in which tax exemptions treat recipients unequally and privilege religious recipients over non-religious ones. The first is for the duration for which tax exemptions are allocated.

The *Community Charter* (Section 224(4)(a)) for example, stipulates that PTEs may only be granted for a period not to exceed 10 years, at which point the recipient needs to re-apply. If at any time the use of a property by the PTE recipient no longer “conforms to the conditions necessary to qualify for exemption,” they lose that exemption.⁷¹ Presumably, the requiring of recipients to re-apply on a regular basis serves as a means of verifying that the property continues to warrant a PTE.

However, this does not apply to all recipients. Section 224(5) exempts the grounds of hospitals, seniors’ homes, independent schools, and places of worship from this time limit. As such, these recipients are granted exemptions in perpetuity. They continue to receive this exemption unless the property changes ownership or is no longer used for the original purpose. On the surface this may seem reasonable; however, there is a problem in determining whether usage has changed.

Because they are allocated in perpetuity, places of worship that receive a PTE are not required to re-apply for their exemptions. This is, of course, the entire point of receiving something in perpetuity – it obviates the need to re-apply. However, without regular reporting requirements, municipalities have no way of knowing if that recipient has changed the usage of its property from its original purpose. Furthermore, there is no incentive for a place of worship to voluntarily report a change in usage that might jeopardize their tax exemption.

In some cases, a change of usage may be obvious and would naturally be brought to the attention of a municipal council when those making the change seek out the necessary permits or changes to zoning. For example, a hotel being converted into affordable housing to address the housing crisis, or a school closing down and being rented out to private company for office space. However, changes that can occur with places of worship are less obvious.

While a place of worship remains a place of worship even if the denomination changes, such a change could have a significant impact on the accessibility and services offered by that place of worship. Even without a change in denomination, a place of worship might gradually become more insular, leading to increased restrictions of public access to its facilities and services, and in so doing, gradually transition into a private club. A place of worship could fall under the sway of a charismatic religious figure who could advocate more discriminatory practices. A place of worship could discontinue a community service like a soup kitchen or offering space to those experiencing homelessness due to any number of factors. Without

⁷¹ *Community Charter*, Section 224(4)(a).

regular evaluations, there is no way for the government to know if a place of worship is continuing to provide a benefit to the community.

A further problem emerges; under the current system of tax exemptions, such reporting would not matter, because unlike non-profit PTE recipients (arts and cultural facilities, athletic or recreational facilities, or charitable or philanthropic organizations), places of worship do not need to demonstrate a benefit to the community, this benefit is assumed. Not only is this benefit assumed in the application process (or lack thereof when it comes to STEs), but it is also presumed in the duration for which the PTE is allocated.



It seems highly problematic that sports organizations, community activity centres, or cultural, agricultural, community or service organizations must demonstrate their benefit to the community through a regular re-application process whereas places of worship are exempt from this level of scrutiny.

The differential and deferential treatment of religious organizations as compared with secular ones represents a violation of separation of religion and government. In this instance, places of worship are given greater privileges than non-religious tax exemption recipients. Places of worship are given PTEs for longer durations, they have distinct, diminished, or *de minimis* reporting and application requirements, and they are automatically granted STEs.

If an organization is offering services that benefit the community, they should be considered for a tax exemption if indeed we as a society agree that these exemptions are a practical mechanism to support these services. Whether or not an organization is religious should have no impact on an application for a tax exemption, nor should it factor into the evaluation of their application. The only circumstance where religion should be a factor in the evaluation of an application is if the values and practices of a particular religious group would lead them to discriminate against members of the public on the basis of race, national or ethnic origin, colour, religion, sex, or age, or mental or physical disability. In these instances, the discrimination should be sufficient to disqualify the applicant from a tax exemption. Governments are bound by the *Charter* to not discriminate on these grounds.

In the 2015 *Mouvement laïque québécois v Saguenay (Saguenay)* decision, the Supreme Court of Canada ruled that the state has a duty of religious neutrality, meaning it must neither endorse nor prohibit any belief or non-belief.⁷² In the Court’s ruling, Justice Gascon explained that

the evolution of Canadian society has given rise to a concept of neutrality according to which the state must not interfere in religion and beliefs. The state must instead remain neutral in this regard. This neutrality requires that the state neither favour nor hinder any particular belief, and the same holds true for non-belief. It requires that the state abstain from taking any position and thus avoid adhering to a particular belief.⁷³

Justice Gascon further elaborated that

[t]he state may not act in such a way as to create a preferential public space that favours certain religious groups and is hostile to others. It follows that the state may not, by expressing its own religious preference, promote the participation of believers to the exclusion of non-believers or vice versa.⁷⁴

The duty of religious neutrality was described by the Court as a ‘democratic imperative.’⁷⁵

While *Saguenay* dealt specifically with the question of prayer at municipal council meetings, the principle of the state’s religious neutrality is not restricted to this narrow context. It is problematic, with respect to tax exemptions in BC, that places of worship are treated differently, without seemingly any reason other than their religious basis. Granting places of public worship exemptions in perpetuity, while granting other entities an exemption “for no longer than 10 years,” does not constitute equal treatment, but rather creates a preferential space, in this case the entire municipality, favouring religious organizations. This appears to be a violation of the state’s duty of religious neutrality.⁷⁶ Fortunately, this problem can be easily rectified, with the abolition of automatic STEs for places of worship, and the adoption of benefits tests for all potential PTE recipients.

Ultimately, it is important that municipalities evaluate all potential tax exemption recipients equally and that the requirements for receiving an exemption are clearly delineated. To this end, municipalities need to clearly establish criteria for what is considered a public benefit. While it is obvious that violating COVID-19 regulations harms the public, current tax exemption practices seem to support organizations that operate as private clubs or that discriminate against protected groups. Assuming places of worship applicants provide a public benefit, while requiring other applicants like sports associations or cultural centres to demonstrate that they provide a benefit is not an expression of administrative fairness.

⁷² *Mouvement laïque québécois v. Saguenay (City)*, 2015, SCC 16 [2015] 2 S.C.R. 3.

⁷³ *Ibid.*, Para. 72.

⁷⁴ *Ibid.*, Para. 75.

⁷⁵ *Ibid.*, Para. 75.

⁷⁶ *Community Charter*, Section 224(4).

It is also worth noting that while regular reporting ensures that tax exemption recipients continue to provide a benefit to the community and to fulfill the criteria established by municipalities, onerous reporting requirements can also overly burden organizations and consume staff time which could otherwise be spent providing services to the community. Municipalities need to strike a balance with respect to establishing reporting requirements. Municipal staff should also be available to support recipients in fulfilling their reporting requirements if need be, as a means of ensuring administrative fairness and equitable access to available funds. Municipalities should also regularly evaluate the criteria they use to evaluate tax exemption applicants in order to ensure that the policy continues to maximize the benefit it provides to the community.

Commercial operations by recipients

Municipalities need to ensure that their policies regarding PTEs exclude would-be recipients that engage in commercial activity. Throughout this report, there has been a basic assumption that tax exemption recipients such as sports clubs, service organizations, or places of worship do not run commercial operations. However, without regular application processes and robust equally applied benefits tests, it is possible that municipalities could be inadvertently subsidizing commercial operations.

One example of this is the Central Baptist Church in Victoria, which has operated a parkade attached to the church since 1998. A news story from 2013 reported that the direct costs of operating this parkade were \$55,000, and that it generated \$105,000 in revenue for the church. Responding to plans by the city to discontinue exempting this portion of the property, Gordon Burton, then treasurer for the church, argued that after mortgage payments “any amounts that are left are quickly used to generate the ministry that we do as a downtown church. Imposing a tax of almost \$25,000 on our parkade would significantly reduce our ability to do neighbourhood outreach.”⁷⁷ The ministries in question are largely religious programming for church members or potential members.⁷⁸ The ‘neighbourhood outreach’ includes “reaching out to our community with friendship, prayer and the Gospel message,” as well as a soup kitchen, and school and youth outreach programs.⁷⁹ Apart from the soup kitchen, it is unclear how these other activities are not merely a form of recruitment and marketing for the church. While the church is entirely within its rights to support these programs with revenue generated from its parkade, this commercial operation should not be subsidized by the municipality.

⁷⁷ Cleverley, B. (2013, April 16). “Victoria churches, charities fight to keep tax exemptions.” *Times Colonist*. Available at <https://www.timescolonist.com/news/local/victoria-churches-charities-fight-to-keep-tax-exemption-1.111437> (retrieved February 17, 2021).

⁷⁸ Central Baptist Church, Victoria. (n.d.). “Ministries.” Available at <https://www.centralbaptistchurch.ca/ministries> (retrieved February 12, 2021).

⁷⁹ Central Baptist Church, Victoria. (n.d.). “Community Engagement.” Available at <https://www.centralbaptistchurch.ca/ministries/community-engagement> (retrieved February 12, 2021).

Not all commercial operations need be so grandiose – a place of worship could earn a modest profit renting out its facilities to community groups. A municipality could deem these modest profits to be within acceptable parameters, but these operations need to be taken into consideration by municipalities when evaluating the appropriateness and size of tax exemptions to allocate.

Conclusion

Governments grant a variety of tax exemptions in order to support organizations providing a public good. These exemptions represent tax revenue that governments would otherwise collect and must therefore be collected from other sources. As this study has demonstrated, the value of these exemptions is considerable: in 2019, as much as \$45.9 million in potential tax revenue was not accessed by municipalities as a result of STEs and \$12.5 million was allocated through PTEs. In 2019, a total of \$58.4 million was allocated in tax exemptions in BC, amounting to roughly \$12 per British Columbian.

Tax exemptions, particularly PTEs, can be effective policy tools and can allow governments to support the work of organizations that are effectively or efficiently delivering beneficial services to the public. Supporting the work of organizations through tax exemptions is, in part, recognition by governments that the recipient may be better situated and/or equipped to deliver a particular service, more effectively or efficiently than government. This well may be the case, but municipal governments need to ensure that the processes by which they allocate these funds are fair and transparent. Municipalities need to adopt measures, specifically regular benefits tests, to ensure that recipients are not breaking the law or endangering lives, that the services being provided offer an actual benefit to the community at large, and that these services are not restricted to members or provided in a discriminatory fashion.

Towards this end, this report makes the following recommendations:

1) **Abolish statutory tax exemptions:**

Relevant provincial legislation needs to be amended to end the practice of automatically granting statutory tax exemptions for places of worship in BC. These exemptions, which amount to as much as \$45.9 million, encroach on the already limited sources of tax revenue for municipalities. Because they are automatically allocated, STEs strip municipalities of the ability to allocate tax exemptions in a way that maximizes benefits to the community as a whole. Municipal governments are well situated to determine if tax exemptions would serve their community, who should receive these exemptions, and the acceptable proportion of the budget these exemptions should consume.

The automatic allocation of STEs comes with the assumption that the recipients provide public benefits, but this is not always the case. STEs can and are granted to

places of worship that operate as private clubs, thereby only accruing benefits upon their member or co-religionists. These exemptions can and do support places of worship with discriminatory practices, practices that violate the *Canadian Charter of Rights and Freedoms*, and therefore should not be funded by government. There are also currently no assurances that STE recipients are following the law, and instead a number of recipients are currently undermining public health and safety measures designed to arrest the spread of a deadly global pandemic.

2) **Adopt and apply rigorous benefits tests for PTEs:**

Municipal governments need to adopt benefits tests with clear criteria for evaluating whether or not the services offered by a recipient provide a benefit to the community. All tax exemption recipients should be treated fairly and equally. Regardless of whether a recipient is a service organization, sports association, or place of worship, they should all be subjected to the same benefits test, applied on a regular basis. Benefits tests should be used to ensure that potential recipients provide a benefit to the community that is accessible to all, that recipients do not discriminate or break the law, and that they do not operate commercial enterprises.

PTEs should be granted for equal durations. Regular reporting and updates from recipients should be required in order to ensure that their services continue to benefit the community. Rules and bylaws concerning PTEs should be clearly communicated and regularly evaluated to ensure that they continue to serve the community's needs and align with the objectives and values of the municipality.

Appendix - Specific Laws Pertaining to STEs and PTEs

Under the *Community Charter*, statutory tax exemptions are automatically applied to buildings 220(1)(h) “set apart for public worship, and the land on which the building stands, if title to the land is registered in the name of

- (i) the religious organization using the building,
- (ii) trustees for the use of that organization, or
- (iii) a religious organization granting a lease of the building and land to be used solely for public worship”⁸⁰

Under the *Vancouver Charter*, statutory exemptions apply to any real property that 396(1)(c)(iv) “of which a religious organization, either directly or through trustees therefor, is the registered owner, or owner under agreement, and which is set apart and in use for the public worship of God; provided, however, that the exemption by this clause conferred shall not be lost by reason of the use of the church property for any of the purposes hereinafter set out if it is so provided by by-law:

- The use of the church property by a government, notwithstanding that a fee is paid for such use:
- The use of the church property for the care or instruction of children under school age by a charitable or non-profit organization:
- The use of the church property for the purpose of teaching organ or choral music, notwithstanding that a fee is charged therefor:
- The use of the church property for the holding of organ recitals, notwithstanding that the recitalist receives a fee therefor:⁸¹

And under the Section 15(1) of the *Taxation (Rural Area) Act*, (d) “every place of public worship” is exempt from property taxation.⁸²

A number of court cases have helped delineate what constitutes a “place of public worship,”⁸³ and a place of worship is generally characterized as a defined area that is used for theistic worship, it must be regularly open to the public, and public worship must be the principle use of the property.⁸⁴ Thus, a place such as a summer camp, which may be used for other purposes and may not be accessible to the public, would not qualify.

Statutory exemptions apply to buildings in which the worship occurs, but do not include such things as outbuildings, parking lots, and the land surrounding them. These portions of the property may be granted a PTE.

⁸⁰ *Community Charter*, Section 220(1)(h).

⁸¹ *Vancouver Charter*, Section 396.

⁸² *Taxation (Rural Area) Act*, Section 15(1)(d).

⁸³ See for example *Young Life v. Assessor of Area #8 et al.* 2005 BCSC 1079.

<https://www.canlii.org/en/bc/bcsc/doc/2005/2005bcsc1079/2005bcsc1079.html> (retrieved February 17, 2021).

⁸⁴ See BC Assessment n.d.: p.3.

Under the *Community Charter* (224(2)), a municipal government can grant a PTE for

- (f) buildings for public worship, and:
 - (i) an area of land surrounding the exempt building,
 - (ii) a hall that the council considers is necessary to the exempt building and the land on which the hall stands, and
 - (iii) an area of land surrounding a hall that is exempt under subparagraph (ii).

As well as (g) land or improvements used or occupied by a religious organization, as tenant or licensee, for the purpose of public worship or for the purposes of a hall that the council considers is necessary to land or improvements so used or occupied.⁸⁵

With respect to these exemptions, (4)(a) bylaws “must establish the term of the exemption, which may not be longer than 10 years,” except for places of worship granted exemptions under (2)(f), which are granted permissions indefinitely, and are only revoked when (7) the use or ownership of the property “no longer conforms to the conditions necessary to qualify for exemption and, after this, the property is liable to taxation.”

Provisions under the *Vancouver Charter* also allow for PTEs for not-for-profit property (396(f)).

⁸⁵ *Community Charter*, Section 224.