

## Retail Sales Tax Act

### R.S.O. 1990, CHAPTER R.31

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## Definitions

1 (1) In this Act,

“admission” includes entry to a place of amusement where any charge is made for such entry and any entry that is provided to a place of amusement as a promotional distribution; (“entrée”)

“automobile insurance” means, with respect to a motor vehicle required to be insured under the *Compulsory Automobile Insurance Act*, automobile insurance that satisfies the requirements of that Act; (“assurance-automobile”)

“band” has the same meaning as in the *Indian Act* (Canada); (“bande”)

“benefits plan” means a funded benefits plan, an unfunded benefits plan or a qualifying trust; (“régime d’avantages sociaux”)

“commercial parking space” means a space, including a space on a street or highway, used for the parking of motor vehicles for which a price is paid or a charge made; (“espace de stationnement commercial”)

“computer program” means a program, thing, data, information, knowledge or an instruction,

(a) that is used to instruct or inform a computer, machine or device, and

(b) that is retained or transferred in any manner including by electronic means,

and includes the types of programs described in subsection (3), documents designed to facilitate the use of all or part of a program and the right to use a program; (“programme informatique”)

“consumer” or “user” means a person who,

- (a) utilizes or intends to utilize in Ontario tangible personal property or a taxable service for his, her or its own consumption or for the consumption of any other person at his, her or its expense, or
- (b) utilizes or intends to utilize in Ontario tangible personal property or a taxable service on behalf of or as the agent for a principal who desired or desires to so utilize such property or taxable service for consumption by the principal or by any person at the expense of the principal; (“consommateur”, “usager”)

“consumption” includes the use, and the incorporation into any structure, building or fixture, of tangible personal property including that manufactured by the consumer or further processed or otherwise improved by the consumer and includes the provision by way of promotional distribution of any tangible personal property or taxable service; (“consommation”)

“contract of insurance” includes a policy, a certificate, an interim receipt, a renewal receipt, a writing evidencing the contract, whether sealed or not, and a binding oral agreement; (“contrat d’assurance”)

“council of the band” has the same meaning as in the *Indian Act* (Canada); (“conseil de la bande”)

“fair value” includes,

- (a) the price for which the tangible personal property or the taxable service was purchased, including the value in terms of Canadian money of services rendered and things exchanged and other considerations accepted by the vendor or person from whom the tangible personal property passed or taxable services were rendered as the price or on account of the price of the tangible personal property purchased or taxable service received,
- (b) the cost of, or charges for, customs, mailing, handling, delivery or transportation, whether or not such are shown separately in the books of the vendor or on any invoices or in the computation of the sale price, or whether or not title has passed to the purchaser before delivery to such purchaser, but does not include delivery charges made by a vendor under a contract for the sale of soil, clay, sand, gravel or unfinished stone,
- (c) the tax imposed pursuant to any provision of the *Excise Tax Act* (Canada), except the tax imposed by Part IX of that Act, or the *Excise Act* (Canada) in respect of the tangible personal property or the taxable service or the sale or acquisition of either of them,
- (d) the cost of installation where the contract under which the property is acquired provides for the acquisition of the property and its installation for one consideration,
- (e) the cost, including materials, labour and manufacturing overhead, of tangible personal property produced by the vendor or person for his, her or its own consumption or use,
- (f) in the case of a sale within the meaning of clause (i) of the definition of “sale”, the fair market value of the tangible personal property transferred to any shareholder, and
- (g) REPEALED: 2002, c. 8, Sched. J, s. 1.
- (h) any tax payable by the purchaser under section 4,
- (i) REPEALED: 2000, c. 10, s. 23 (1).

except that, in the case of either a mobile home or a modular home sold for the first time at a retail sale after the 6th day of April, 1976, “fair value” means the taxable value of such mobile home or modular home, as the case may be; (“juste valeur”)

“Federal Minister” means a minister of the Government of Canada who is responsible for the administration, enforcement or collection of the tax imposed under Part IX of the *Excise Tax Act* (Canada); (“ministre fédéral”)

“full fair value” means, in respect of a promotional distribution of tangible personal property or a taxable service, the price paid by the promotional distributor for the tangible personal property or taxable service or, if the tangible personal property was manufactured or produced by the promotional distributor or the taxable service was provided by the promotional distributor, the cost incurred by the promotional distributor to manufacture or produce the property or to provide the service, as the case may be; (“juste valeur intégrale”)

“full price of admission” means, in respect of a promotional distribution of an admission, the price paid by the promotional distributor for the admission or, if the place of amusement to which the admission is supplied is owned or operated by the promotional distributor, the normal and usual price charged for the admission; (“prix d’entrée intégral”)

“funded benefits plan” means a plan,

- (a) that provides protection against risk to an individual that could otherwise be obtained by taking out a contract of insurance, whether the benefits are partly insured or not, and

- (b) that comes into existence when the premiums paid into a fund out of which benefits will be paid exceed amounts required for the payment of benefits that are foreseeable and payable within 30 days after payment of the premium, and includes a multi-employer benefits plan but not a qualifying trust; (“régime d’avantages sociaux par capitalisation”)
- “group insurance” means a policy of insurance that covers, under a master policy, the participants of a specified group or of a specified group and other persons; (“assurance collective”)
- “Indian” has the same meaning as in the *Indian Act* (Canada); (“Indien”)
- “insurance” means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event, and includes life insurance; (“assurance”)
- “insurer” means the person who undertakes or agrees or offers to undertake a contract of insurance and includes an exchange, as defined under the *Insurance Act*, a reciprocal insurance exchange, as defined under that Act, and an association registered under the *Prepaid Hospital and Medical Services Act*; (“assureur”)
- “International Registration Plan” means the International Registration Plan referred to in subsection 7.1 (1) of the *Highway Traffic Act*; (“entente appelée International Registration Plan”)
- “member” means an individual or other persons to whom benefits are payable under a benefits plan; (“participant”)
- “member jurisdiction” means a jurisdiction other than Ontario that is a member of the International Registration Plan; (“autorité membre”)
- “Minister” means the Minister of Finance; (“ministre”)
- “mobile home” means a vehicular portable structure that,
- (a) is defined to be a mobile home, a multiple section mobile home or a swing out and expandable room section mobile home for the purposes of the Z240 series of standards prescribed by the Canadian Standards Association, and
  - (b) complies with the requirements for a mobile home, multiple section mobile home or swing out and expandable room section mobile home contained in that series of standards, and bears the seal of the Canadian Standards Association attesting to such compliance; (“maison mobile”)
- “modular home” means a house that is intended for residential purposes and that is constructed by assembling manufactured modular units each of which comprises at least one room or living area, has been manufactured to comply with the A277 series of standards prescribed by the Canadian Standards Association, and bears the seal of that Association attesting to such compliance; (“maison modulaire”)
- “multi-employer benefits plan” means a trust established to provide employees of two or more unrelated employers protection against risk to an individual under a single funded benefits plan; (“régime d’avantages sociaux interentreprises”)
- “multijurisdictional vehicle” means a vehicle for which an IRP cab card, as defined in subsection 6 (1) of the *Highway Traffic Act*, has been issued; (“véhicule à immatriculation multilatérale”)
- “person”, in addition to its meaning in Part VI (Interpretation) of the *Legislation Act, 2006*, includes Her Majesty in right of Ontario, a partnership, a municipality or a local board thereof as defined in the *Municipal Affairs Act*, and any board, commission or authority established under any Act of the Legislature; (“personne”)
- “place of amusement” means an amusement park or a premises or place, whether enclosed or not, where a projector or similar equipment is operated, or where a theatrical performance, carnival, circus, side show, menagerie, concert, rodeo, exhibition, horse race, athletic contest or other performance or entertainment is staged or held or where facilities for dancing are provided to the public with the service of liquor, beer or wine and to which admission is granted upon payment of a price of admission through the sale of tickets or otherwise; (“lieu de divertissement”)
- “planholder” means, in relation to a benefits plan, the person who provides the plan, including an employer under a multi-employer benefits plan and the trustee of a qualifying trust; (“titulaire du régime”)
- “premium” means,
- (a) any payment in respect of a contract of insurance and includes any payment made by a subscriber to an exchange or reciprocal insurance exchange (as defined in the *Insurance Act*) and dues, assessments, administration fees paid for the administration or servicing in respect of the contract and other considerations, but does not include a reasonable financing fee or a prescribed underwriting fee that is shown separately from other charges,
  - (b) any charge made by the holder of group insurance to any person whose risk is covered by the policy,

(c) any amounts required to be paid into an insurance scheme or compensation fund established by or under any Act of the Parliament of Canada or the Legislature of Ontario,

(d) in respect of an unfunded benefits plan,

(i) any amounts, other than an amount that would be included in the total Ontario remuneration of the planholder under the *Employer Health Tax Act*, paid by the planholder by reason of the occurrence of a risk, less any amounts paid to the planholder by members in order to receive benefits under the plan, and

(ii) any amounts paid by members in order to receive benefits under the plan,

and includes dues, assessments, or administrative costs and fees paid for the administration or servicing of the plan to the vendor,

(e) in respect of a funded benefits plan,

(i) any amounts paid into the plan by the planholder, including amounts paid to an administrator, but not including amounts that would be included in total Ontario remuneration of the planholder under the *Employer Health Tax Act* when paid out of the benefits plan, less any amounts paid to the planholder by members in order to receive benefits under the plan, and

(ii) any amounts paid by members in order to receive benefits under the plan,

and includes dues, assessments, or administrative costs and fees paid for the administration or servicing of the plan to the vendor,

(f) in respect of a qualifying trust,

(i) any amounts paid by the planholder by reason of the occurrence of a risk, less any amounts paid to the planholder by members in order to receive benefits under the plan, and

(ii) any amounts paid by members in order to receive benefits under the plan,

and includes dues, assessments, or administration costs and fees paid for the administration or servicing of the plan to the vendor; (“prime”)

“price of admission” means the charge made to a purchaser for entry into a place of amusement; (“prix d’entrée”)

“promotional distribution” means the provision by any person to others of any tangible personal property, taxable service or admission to a place of amusement (other than any provision thereof that is prescribed by the Minister to be excluded from the application of this paragraph) that is, in the opinion of the Minister, provided for any one or more of the following purposes:

(a) to promote or encourage attendance at, or patronage of, any place of amusement, business, undertaking or enterprise,

(b) to describe, or to promote or encourage the purchase, consumption or use of, any goods, wares, services or property of any kind,

(c) to furnish to any person any directory, listing or compilation of persons, places, prices, services, commodities, places of business or users of any service,

(d) for any function, use or purpose prescribed by the Minister to be a promotional distribution; (“distribution promotionnelle”)

“promotional distributor” means any person who is a resident of, or carries on business in, Ontario and who, by way of promotional distribution, provides or causes to be provided to any person in Ontario any tangible personal property, taxable service or admission to a place of amusement the full fair value or full price of admission of which is not specifically charged to, and required to be paid by, the person to whom such tangible personal property, taxable service or admission to a place of amusement is provided; (“agent de distribution promotionnelle”)

“protection against risk to an individual” includes any undertaking to pay on death, or disability, or for supplemental health care, drugs, dental care, vision care, hearing care, or for protection against loss of income due to illness or accident or that provides any other similar benefit to an individual; (“protection personnelle contre un risque”)

“purchaser” means a consumer or person who acquires tangible personal property anywhere, or who acquires or receives a taxable service at a sale in Ontario, for his, her or its own consumption or use, or for the consumption or use in Ontario of other persons at his, her or its expense, or on behalf of or as agent for a principal who desires to acquire the property or service for consumption or use in Ontario by the principal or by other persons at his, her or its expense, and includes,

- (a) a person who, at his, her or its expense, purchases admission to a place of amusement for himself, herself or itself or for another person, and
- (b) a promotional distributor to the extent that the full fair value or full price of admission of any tangible personal property, taxable service or admission to a place of amusement provided by way of promotional distribution exceeds any payment specifically made for it by the person to whom the property, service or admission is so provided; (“acheteur”)

“qualifying trust” means, subject to subsection (1.0.1), a trust that is established on or after December 1, 2010 to provide members and others with protection against risk to an individual that could otherwise be obtained by taking out a contract of insurance, whether the benefits are partly insured or not, and that is a trust prescribed by the Minister or that satisfies the criteria prescribed by the Minister; (“fiducie admissible”)

“registrant” means a person who registers a multijurisdictional vehicle under the International Registration Plan; (“titulaire de l’immatriculation”)

“registration year” means, in respect of a multijurisdictional vehicle, the period, not exceeding 12 months, beginning on the day the vehicle is registered under the International Registration Plan; (“année d’immatriculation”)

“regulations” means the regulations made under this Act; (“règlements”)

“reserve” has the same meaning as in the *Indian Act* (Canada); (“réserve”)

“retail sale” means a sale to a purchaser for the purpose of consumption or use and not for resale; (“vente au détail”)

“returnable container” means a container or other tangible personal property,

- (a) that is used in the packaging, storage or shipping of tangible personal property, and
- (b) that is intended to be returned, directly or indirectly, to a person for reuse in the packaging, storage or shipping of tangible personal property; (“contenant réutilisable”)

“sale” means,

- (a) any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, including a sale on credit or where the price is payable by instalments, or any other contract whereby at a price or other consideration a person delivers to another person tangible personal property,
- (a.1) the provision of any charge or billing, including periodic payments,
  - (i) upon rendering or providing or upon any undertaking to render or provide to another person a taxable service, or
  - (ii) for or on account of a price of admission, including any admission sold on a subscription or season ticket basis,
- (a.2) the insertion of coins or tokens into a meter or other device in order to pay for the use of a commercial parking space,
- (a.3) the transfer or delivery in any manner of a computer program including the assumption of, or adherence to, a licence to use the program,
- (b) the production, fabrication, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, processing, printing or imprinting,
- (c) the furnishing and distribution of tangible personal property for a consideration by social clubs or fraternal organizations to their members or others,
- (d) the furnishing, preparation or service for a consideration of food, meals or drinks,
- (e) a transaction whereby the possession of tangible personal property is transferred but the vendor retains the title as security for payment of the price,
- (f) a transfer for a consideration of the title to or possession of tangible personal property that has been produced, fabricated, printed or imprinted to the order of the purchaser,
- (g) the production, fabrication, processing, printing or imprinting of tangible personal property or the production of a taxable service by a person for his, her or its own consumption or use when that person furnishes either directly or indirectly the materials and labour used in such production, fabrication, processing, printing or imprinting,
- (h) the provision by way of promotional distribution of any tangible personal property or taxable service,

- (i) the transfer of title to or possession of tangible personal property from a corporation to any shareholder thereof as the result of the winding up or dissolution of the corporation, except where the corporation has paid tax under this Act with respect to its consumption or use of the tangible personal property to be transferred, or where, at the time of the corporation's winding up or dissolution, the tangible personal property is exempt from tax under this Act or is acquired by a shareholder solely for the purpose of resale,
- (j) the delivery of beer or wine to a person who contracted with a vendor for use of the vendor's premises to produce the beer or wine for the person's own consumption or use,
- (k) the provision of such telecommunication services as the Minister may prescribe; ("vente")

"storage" includes any keeping or retention in Ontario for any purpose except retail sale or, subject to subsection 2 (11.1), subsequent use outside Ontario of tangible personal property purchased from a vendor, but does not include the keeping, retaining or exercising of any right or power over tangible personal property shipped or brought into Ontario for the purpose of transporting it subsequently outside Ontario or for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property to be transported outside Ontario and thereafter used solely outside Ontario; ("entreposage")

"subscriber" means, in relation to an exchange or reciprocal insurance exchange (as defined in the *Insurance Act*), a person exchanging with another person a reciprocal contract of indemnity or insurance; ("souscripteur")

"tangible personal property" means personal property that can be seen, weighed, measured, felt or touched or that is in any way perceptible to the senses and includes computer programs, natural gas and manufactured gas; ("bien meuble corporel")

"tax" includes all penalties and interest that are or may be added to a tax under this Act; ("taxe")

"taxable service" means,

- (a) telecommunication services of all kinds, including without restricting the generality of the foregoing, telephone and telegraph services, community antenna television and cable television, transmissions by microwave relay stations or by satellite, and pay television, but not including public broadcasting services that are broadcast through the air for direct reception by the public without charge,
- (b) transient accommodation,
- (c) labour provided to install, assemble, dismantle, adjust, repair or maintain tangible personal property other than a computer program,
- (c.1) labour provided to install, configure, modify or upgrade a computer program, as those words are defined by the Minister, where there is a sale of the labour on or after July 19, 2002,
- (d) any contract for the service, maintenance or warranty of tangible personal property other than a computer program,
- (d.1) any contract entered into on or after July 19, 2002 for the service, maintenance or warranty of a computer program, as those expressions are defined by the Minister, or
- (e) the provision of the right to park a motor vehicle or to have a motor vehicle parked in a commercial parking space; ("service taxable")

"taxable value" means,

- (a) in the case of a mobile home, one-half of the sale price thereof that is charged to the person acquiring the mobile home as a residence, if such price is determined by including therein all charges for delivery of the mobile home in accordance with the terms of such sale, by excluding therefrom the retail sale price of any furniture or appliance that is not permanently attached to, and part of, the interior structure of the mobile home, and by excluding therefrom any charges for the installation or connection of the mobile home on the site to which it is delivered, or
- (b) in the case of a modular home, an amount equal to 55 per cent of the sale price of such modular home on the sale thereof by its manufacturer to a builder, or where the manufacturer is the consumer of such modular home, 55 per cent of the sale price normally charged by the manufacturer on the sale thereof to a builder,

but such taxable value applies only with respect to the first retail sale of a mobile home or a modular home after the 6th day of April, 1976; ("valeur taxable")

"telecommunication" means any transmission, emission or reception of signs, signals, writing, images or sound or intelligence of any nature by wire, radio, visual or other electromagnetic or laser-based system, but does not include any transmission, emission or reception or class thereof that is prescribed by the Minister to be excluded for the purpose of this definition; ("télécommunication")

“trailer” has the same meaning as in subsection 1 (1) of the *Highway Traffic Act*; (“remorque”)

“transient accommodation” means the provision of,

- (a) lodging in a hotel, motel, hostel, apartment house, lodging house, boarding house, club or other similar accommodation, whether or not a membership is required for the lodging,
- (b) prepared food products provided pursuant to the American plan, modified American plan or other arrangement that combines the provision of lodging and prepared food products at a single price, or
- (c) lodging or lodging and prepared food products provided as a right or privilege of membership in an organization, whether or not a specific charge for the lodging and prepared food products is made,

but does not include the provision of lodging let for a continuous period of one month or more or lodging in a lodging house, rooming house or boarding house that has accommodation for fewer than four tenants; (“logement temporaire”)

“unfunded benefits plan” means a plan which gives protection against risk to an individual that could otherwise be obtained by taking out a contract of insurance, whether the benefits are partly insured or not, and where payments are made by the planholder directly to or on behalf of the member of the plan or to the vendor upon the occurrence of the risk; (“régime d’avantages sociaux sans capitalisation”)

“use” includes storage and the exercise of any right or power over tangible personal property incidental to the ownership of that property, but it does not include the sale of that property at a retail sale or the keeping, retaining or exercising of any right or power over tangible personal property shipped or brought into Ontario for the purpose of transporting it subsequently outside Ontario for use thereafter solely outside Ontario or for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property to be transported outside Ontario and thereafter used solely outside Ontario; (“usage”)

“vendor” means a person who, in the ordinary course of business,

- (a) sells or licenses tangible personal property,
- (b) sells or renders a taxable service,
- (c) owns or operates a place of amusement,
- (d) is an insurer, an insurance agent licensed under the *Insurance Act* or a registered insurance broker as defined in the *Registered Insurance Brokers Act*,
- (e) is a person, including the Crown, to whom contributions are paid in respect of an insurance scheme or compensation fund established by or under any Act of the Parliament of Canada or the Legislature of Ontario,
- (f) is the planholder of a benefits plan or the person to whom the planholder or planholders of a benefits plan pay premiums,
- (g) is a person who, in consideration of payment, whether direct or indirect, supplies to another person ingredients, utensils, facilities or equipment on the person’s premises for that other person to produce beer or wine for his or her own consumption or use, or
- (h) is the holder of group insurance to whom charges are paid by persons whose risks are covered by the policy. (“vendeur”) R.S.O. 1990, c. R.31, s. 1; 1993, c. 12, s. 1 (1); 1994, c. 13, s. 1; 1994, c. 17, s. 135; 1996, c. 29, s. 23; 1997, c. 10, s. 30 (1-4); 1997, c. 43, Sched. D, s. 1; 2000, c. 10, s. 23; 2001, c. 8, s. 227; 2001, c. 23, s. 188; 2002, c. 8, Sched. J, s. 1; 2002, c. 17, Sched. F, Table; 2002, c. 22, s. 170 (1); 2005, c. 31, Sched. 19, s. 1; 2006, c. 21, Sched. F, s. 136 (2); 2006, c. 33, Sched. Z.4, s. 1; 2008, c. 7, Sched. R, s. 1 (1, 2); 2010, c. 26, Sched. 17, s. 1 (1-9); 2011, c. 9, Sched. 37, s. 1 (1).

## **Qualifying trust**

(1.0.1) For the purposes of this Act, a qualifying trust comes into existence on the earlier of,

- (a) the date on which it satisfies such requirements as may be prescribed by the Minister for the purposes of this clause; or
- (b) the earliest date on which amounts paid into the plan exceed the amounts required for the payment of benefits that are foreseeable and payable within three years, or within such other period as may be prescribed by the Minister. 2010, c. 26, Sched. 17, s. 1 (10). 2011, c. 9, Sched. 37, s. 1 (2).



### **Continuation as qualifying trust**

(1.0.2) A trust that has met the definition of a “qualifying trust” in subsection (1) and has come into existence under subsection (1.0.1) is deemed to continue to be a qualifying trust for the purposes of this Act even if it ceases to meet the requirements set out in that definition. 2011, c. 9, Sched. 37, s. 1 (2).

### **Treatment of multi-employer trusts**

(1.0.3) If more than one employer pays amounts into the same trust, the trust shall be treated, for the purposes of this Act, as if the amounts paid by each employer were paid into a separate trust. The definition of “qualifying trust”, and subsections (1.0.1) and (1.0.2), apply with respect to each separate trust instead of the trust as a whole. 2011, c. 9, Sched. 37, s. 1 (2).

### **Not a qualifying trust**

(1.0.4) If a separate trust does not comply with the requirements for being a qualifying trust, the separate trust is taxable as a funded benefits plan or an unfunded benefits plan, as the case may be. 2011, c. 9, Sched. 37, s. 1 (2).

### **Fair value of transient accommodation**

(1.1) Despite the definition of “fair value” in subsection (1), the fair value of transient accommodation sold to a purchaser on or after May 19, 2004 and before July 1, 2010 does not include a fee imposed by the vendor if the following conditions are satisfied:

1. The vendor forwards the fee to a non-profit agency to be used for the exclusive purpose of promoting tourism in Ontario or in the municipality in which the accommodation is located.
2. The fee does not exceed 3 per cent of the amount that would be the fair value of the transient accommodation if no fee were imposed by the vendor.
3. The fee is shown as a separate item on the purchaser’s invoice or receipt for the accommodation.
4. After December 31, 2004, the fee is labelled on the purchaser’s invoice or receipt as “Destination Marketing Fee”. 2004, c. 31, Sched. 33, s. 1; 2005, c. 28, Sched. M, s. 1; 2006, c. 9, Sched. M, s. 1; 2007, c. 7, Sched. 36, s. 1; 2008, c. 7, Sched. R, s. 1 (3).

### **Fair market value**

(2) For the purposes of clause (f) of the definition of “fair value” in subsection (1), the fair market value of tangible personal property that is a used motor vehicle is the fair market value as defined in subsection 4.2 (3). 1993, c. 12, s. 1 (2).

### **Types of computer programs**

(3) The following types of programs are computer programs for the purposes of this Act:

1. A program to solve a problem using a computer, machine or device, including the sequence of automatic instructions for data processing equipment necessary to solve the problem.
2. Instructions to enable or cause a computer, machine or device to control a function or perform it or to produce a desired result and to do so either directly or using other equipment.
3. System programs, application programs, assemblers, compilers, routines, generators and utility programs.
4. Pre-written programs. 1997, c. 10, s. 30 (5); 2002, c. 22, s. 170 (2).

### **Section Amendments with date in force (d/m/y)**

1993, c. 12, s. 1 (1) - 29/07/1993; 1993, c. 12, s. 1 (2) - 01/10/1992; 1994, c. 13, s. 1 (1) - 20/05/1993; 1994, c. 13, s. 1 (2) - 23/06/1994; 1994, c. 13, s. 1 (4-6) - 01/07/1993; 1994, c. 13, s. 1 (7) - 23/06/1994; 1994, c. 13, s. 1 (8, 9) - 20/05/1993; 1994, c. 17, s. 135 - 06/05/1994; 1996, c. 29, s. 23 - 09/12/1996; 1997, c. 10, s. 30 (1-5) - 07/05/1997; 1997, c. 43, Sched. D, s. 1 - 18/12/1997

2000, c. 10, s. 23 (1, 2) - 03/05/2000

2001, c. 23, s. 188 (1) - 01/07/1993; 2001, c. 23, s. 188 (2, 4, 7) - 01/10/2001; 2001, c. 23, s. 188 (3, 6) - 01/07/1993; 2001, c. 23, s. 188 (5) - 12/09/1996

2002, c. 8, Sched. J, s. 1 - 18/06/2002; 2002, c. 17, Sched. F, Table - 01/01/2003; 2002, c. 22, s. 170 (1, 2) - 19/07/2002;

2004, c. 31, Sched. 33, s. 1 - 19/05/2004

2005, c. 28, Sched. M, s. 1 - 19/05/2005; 2005, c. 31, Sched. 19, s. 1 (1, 2) - 15/12/2005

2006, c. 9, Sched. M, s. 1 - 01/07/2006; 2006, c. 21, Sched. F, s. 136 (2) - 25/07/2007; 2006, c. 33, Sched. Z.4, s. 1 (1, 2) - 20/12/2006;

2007, c. 7, Sched. 36, s. 1 - 17/05/2007

2008, c. 7, Sched. R, s. 1 (1) - 14/05/2008; 2008, c. 7, Sched. R, s. 1 (2) - 07/05/1997; 2008, c. 7, Sched. R, s. 1 (3) - 26/03/2008

2010, c. 26, Sched. 17, s. 1 (1, 3, 5, 9) - 08/12/2010; 2010, c. 26, Sched. 17, s. 1 (2, 4, 6, 7, 8, 10) - 01/12/2010

2011, c. 9, Sched. 37, s. 1 (1, 2) - 01/12/2010

### **Exemptions under other Acts**

**1.1** No person otherwise subject to tax under this Act is exempt therefrom by reason of an exemption granted to the person, or to or in respect of the personal or real property of the person, by or under any other Act, unless the other Act expressly mentions this Act. 2001, c. 23, s. 189.

### **Section Amendments with date in force (d/m/y)**

2001, c. 23, s. 189 - 05/12/2001

### **Tax on purchasers**

#### **of tangible personal property**

**2** (1) Every purchaser of tangible personal property, except the classes thereof referred to in subsection (2), shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof, computed at the rate of 8 per cent of the fair value thereof. R.S.O. 1990, c. R.31, s. 2 (1).

#### **of liquor, beer, wine**

(2) Every purchaser of liquor, beer or wine shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof computed at the rate of,

- (a) 10 per cent of the fair value thereof if the liquor, beer or wine is sold or is required to be sold under the authority of a licence issued by the Alcohol and Gaming Commission of Ontario under the *Liquor Licence Act*; or
- (b) 12 per cent of the fair value thereof if the liquor, beer or wine is sold or is required to be sold by or under the authority of the Liquor Control Board of Ontario under the *Liquor Control Act*. 1993, c. 12, s. 2 (1); 1998, c. 34, s. 93.

#### **of taxable service**

(3) Every purchaser of a taxable service other than a taxable service described in clause (b) of the definition of “taxable service” in subsection 1 (1) shall pay to Her Majesty in right of Ontario a tax in respect thereof computed at the rate of 8 per cent of the fair value thereof. R.S.O. 1990, c. R.31, s. 2 (3); 1994, c. 13, s. 2 (1); 2002, c. 22, s. 171 (1).

#### **Idem**

(4) Every purchaser of a taxable service described in clause (b) of the definition of “taxable service” in subsection 1 (1) shall pay to Her Majesty in right of Ontario a tax in respect thereof computed at the rate of 5 per cent of the fair value thereof. R.S.O. 1990, c. R.31, s. 2 (4).

### **Tax on admission to a place of amusement**

(5) Every purchaser of admission to a place or places of amusement shall pay to Her Majesty in right of Ontario a tax computed at the rate of 10 per cent of the price of admission where the price of admission exceeds \$4. R.S.O. 1990, c. R.31, s. 2 (5).

### **When tax payable**

(6) A purchaser shall pay the tax imposed by this Act at the time of the sale or the promotional distribution of an admission. R.S.O. 1990, c. R.31, s. 2 (6); 1996, c. 29, s. 24 (1).

### **Sale by rent or lease**

(7) Despite subsection (6) and section 12, where a purchaser,

- (a) rents or leases from any person any taxable service at a sale in Ontario; or
- (b) acquires tangible personal property at a sale that is the lease or rental to the purchaser of such tangible personal property without provision for the transfer to the purchaser of title thereto, or with the provision of such transfer only upon the exercise of an option or similar right to acquire such tangible personal property,

the tax imposed by this section and section 2.1.1 shall be computed, paid and collected on the due date of, and on the fair value of, each rental payment by or on behalf of the purchaser in respect of the lease or rental of such taxable service or tangible personal property, and tax shall, in addition, be computed, paid and collected at the time of, and on the fair value for,

each of the obtaining of any option or similar right to purchase the tangible personal property leased or rented or the exercising of any such option or similar right. R.S.O. 1990, c. R.31, s. 2 (7); 1993, c. 12, s. 2 (2); 2010, c. 1, Sched. 25, s. 1 (1).

(8) REPEALED: 2005, c. 31, Sched. 19, s. 2.

#### **Determination of fair value**

(9) Where the Minister considers it necessary or advisable, he or she may determine the amount of any price of admission or of any premium, or the fair value of any tangible personal property or any service, for the purpose of taxation under this Act, and thereupon the price of admission, the premium or the fair value of the tangible personal property or any service, for such purpose shall be so determined by the Minister unless, in proceedings instituted by an appeal under section 25, it is established that the determination is unreasonable. 1994, c. 13, s. 2 (2); 2002, c. 22, s. 171 (2).

#### **Refund of tax**

(10) Subject to subsection (11), if a person sells any tangible personal property at a retail sale in Ontario to a person who alleges that he, she or it is not purchasing it for consumption or use in Ontario, the person shall nevertheless require the person who is purchasing it to pay the tax, but such payment shall be refunded on receipt by the Minister of satisfactory evidence that the tax was wrongfully paid. R.S.O. 1990, c. R.31, s. 2 (10).

#### **Application for refund**

(11) An amount paid under this Act as tax that is not payable as tax and that was not paid to discharge liability under an assessment made under this Act shall be refunded if application for the refund is made to the Minister within four years after the date of payment of the amount. R.S.O. 1990, c. R.31, s. 2 (11).

#### **Exception**

(11.1) Despite subsection (10), the Minister shall not refund any tax paid in respect of tangible personal property permanently removed from Ontario by the purchaser to another Canadian province or territory on or after July 1, 1993, unless the purchaser supplies proof satisfactory to the Minister that all of the taxes in respect of the property payable to the other Canadian jurisdiction have been paid and that none of the tax is refundable to the purchaser. 1994, c. 13, s. 2 (3); 1996, c. 29, s. 24 (2).

#### **Limitation**

(12) Only one application may be made under subsection (11) in respect of the same amount. R.S.O. 1990, c. R.31, s. 2 (12).

#### **Refund to contracting party**

(13) If the amount that is the subject of an application under subsection (11) was paid in the course of performing a contract for the construction of any building or structure or other improvement which on completion will be real property and was repaid by another party to the contract, the amount may be refunded to the other party. 1996, c. 29, s. 24 (3).

#### **Overpayment refunded**

(14) Subject to subsection 18 (8), subsection 19 (3) and to subsection 20 (9), where an assessment or reassessment under this Act or the final decision of a court in proceedings commenced under section 25 establishes that the person assessed or reassessed or the appellant, as the case may be, has overpaid the tax payable under this Act for the period covered by the assessment or reassessment, the amount of such overpayment shall be refunded to the person. R.S.O. 1990, c. R.31, s. 2 (14).

#### **Extension of time**

(15) Where, within four years following the payment of an amount under this Act as tax that is not payable as tax, the person who paid such amount informs the Minister that a claim for a refund of such amount will be made, and further provides to the Minister evidence of the nature of the claim and an explanation satisfactory to the Minister of why the full particulars of the claim cannot be furnished in the proper form within such four-year period, the Minister may extend by not more than six months the four-year period mentioned in subsection (11). R.S.O. 1990, c. R.31, s. 2 (15).

#### **Refund by vendor**

(16) Despite subsection (11), a vendor may refund to a purchaser from whom the vendor has collected tax the whole or a part of such tax, as the case requires,

- (a) if any of the circumstances described in subsection (16.0.1) exist; and
- (b) if the refund is made within four years following the sale with respect to which the tax being refunded was collected. 2002, c. 22, s. 171 (3).

**Time limit for refund of certain taxes**

(16.0.0.1) A vendor is not permitted to provide a refund under subsection (16) after October 31, 2010 in respect of tangible personal property that is returned to the vendor after June 30, 2010. 2010, c. 1, Sched. 25, s. 1 (2).

**Same**

(16.0.1) The following are the circumstances in which a vendor may refund to a purchaser all or part of the tax collected by the vendor from the purchaser:

1. The tax payable and collected, or the purchase price charged, was overstated by reason of a clerical or arithmetical error in computation.
2. The purchaser acquired from the vendor the goods on which a refund of tax is sought for the purpose of reselling the goods, and after the sale and before the refund is made provides the vendor with a proper purchase exemption certificate with respect to the goods.
3. The price paid for the tangible personal property, taxable service or as the price of admission is subsequently reduced and the amount of the reduction refunded or credited to the purchaser.
4. The refund made is with respect to a class of transactions prescribed by the Minister for the purpose of this subsection or has been authorized by the Minister in writing before the refund is made. 2002, c. 22, s. 171 (3).

**Deduction by vendor from amount remitted**

(16.0.2) The vendor may deduct from a subsequent remittance of tax under this Act the amount of a refund to a purchaser made in accordance with subsection (16) if the vendor takes the deduction within four years from the date of the refund to the purchaser. 2002, c. 22, s. 171 (3).

**Same**

(16.0.3) Despite subsection (16.0.2), a vendor may not deduct the amount of a refund to a purchaser from a subsequent remittance to a person authorized under subsection 11 (1) to collect the tax from the vendor. 2002, c. 22, s. 171 (3).

**Same**

(16.0.4) If subsection (16.0.3) applies with respect to a vendor, the Minister may refund to the vendor the amount of a refund to a purchaser referred to in subsection (16). 2002, c. 22, s. 171 (3).

**Refund on premiums**

(16.1) Despite subsection (11), where a premium payable under a contract of insurance or a benefits plan is subsequently cancelled or reduced, the vendor may refund to the person from whom the vendor has collected tax, the whole or a part of such tax, as the case may be, if the refund is made within four years following the due date of the premium with respect to which the tax being refunded was collected. 1994, c. 13, s. 2 (5).

**Same**

(16.2) Despite subsection (11), where a policy dividend or an experience rating refund is paid to a person who has entered into a contract of insurance, the insurer may refund an additional amount on account of tax if the premiums paid by the person were subject to tax under this Act and if the refund is made within four years following the due date of the original premium. 1994, c. 13, s. 2 (5).

**Refund, reduction in tax**

(16.3) Despite subsection (11), any amount of tax paid before, on or after May 3, 2000 in respect of a premium payment due after May 2, 2000 under a contract of automobile insurance that exceeds the amount of tax payable under this section in respect of that premium payment may be refunded by the vendor to the person from whom the vendor collected the tax. However, no refund shall be made more than four years after the date on which the tax to be refunded was paid. 2000, c. 10, s. 25.

**Deduction of refund**

(16.4) Any refund made under subsection (16.1), (16.2) or (16.3) may be deducted by the vendor from subsequent remittances of tax under this Act, if the vendor takes the deduction within four years from the date of the refund to the person who paid the premiums. 2000, c. 10, s. 25.

**Refund not to include tax**

(17) Where the erroneous payment giving rise to a claim for a refund under subsection (11) or (14) is the result of a sale under a contract in which a party other than the applicant for the refund is the purchaser who should have paid the tax or any part thereof a refund of which is sought, and where such tax, had it been properly paid, can reasonably be considered to have

been likely to form a part of the contract price that would have been charged to the person claiming the refund, the Minister may, despite subsection (11) or (14), determine by such method or formula as he or she considers appropriate the amount by which the payment sought to be refunded exceeds the tax that would have been properly payable in the performance of the contract, and shall refund only the amount of such excess so determined. R.S.O. 1990, c. R.31, s. 2 (17).

### **Tangible personal property brought into or received in Ontario**

(18) Every person who brings into Ontario or who receives delivery in Ontario of tangible personal property acquired by the person for value for his, her or its own consumption or use, or for the consumption or use of other persons at his, her or its expense, or on behalf of, or as agent for, a principal who desires to acquire such property for the consumption or use by such principal or other persons at his, her or its expense, shall immediately report the matter in writing to the Minister and shall supply the Minister with the invoice and all other pertinent information required by him or her in respect of the consumption or use of such property and at the same time shall pay to Her Majesty in right of Ontario the same tax in respect of the consumption and use of such property as would have been payable if the property had been purchased at a retail sale in Ontario at the time such tangible personal property is brought into Ontario or delivery thereof is received in Ontario together with any tax payable under section 4. R.S.O. 1990, c. R.31, s. 2 (18); 1994, c. 13, s. 2 (6).

### **Calculation of tax**

(19) The tax imposed by this Act shall be calculated separately on every purchase and shall be computed to the nearest cent, and every fraction of less than one-half cent shall not be counted and every fraction of one-half cent or more shall be counted as one cent, but, where on the same occasion or as part of one transaction several items of tangible personal property are purchased, the total of the purchase shall be deemed to be one purchase for the purposes of this Act. R.S.O. 1990, c. R.31, s. 2 (19).

### **Tax on merchandise tendered in trade**

(20) Where tangible personal property is accepted at the time of sale by a person or a vendor on account of the price of other tangible personal property sold, the purchaser shall pay the tax under subsection (1) calculated on the difference between the fair value of the property sold and the credit allowed for the tangible personal property accepted on account of the purchase price in trade. R.S.O. 1990, c. R.31, s. 2 (20); 1993, c. 12, s. 2 (4); 2010, c. 26, Sched. 17, s. 2.

### **Exception**

(20.1) Subsection (20) does not apply if any purchaser could acquire the tangible personal property exempt from tax imposed by this Act at the time it is so accepted. 1993, c. 12, s. 2 (5).

### **If exempt property put to taxable use**

(21) If tangible personal property is purchased exempt from the tax imposed by this Act and the tangible personal property is subsequently put to a taxable use before July 1, 2010, the purchaser shall pay the tax imposed by this Act on the fair value of the tangible personal property at the time of the change in use. 2009, c. 34, Sched. R, s. 1 (2).

### **Tax on promotional distributions**

(22) The tax payable under this section and section 2.1.1 in respect of tangible personal property, a taxable service or an admission that is supplied on a promotional distribution,

- (a) is payable by the person to whom the promotional distribution is made in the amount determined by applying the appropriate tax rate to the amount, if any, paid or payable by the person for the tangible personal property, taxable service or admission, as the case may be; and
- (b) is payable by the promotional distributor in the amount determined by applying the appropriate tax rate to the amount by which the full fair value of the tangible personal property or taxable service, or the full price of admission, exceeds the amount, if any, paid or payable to the promotional distributor by the person to whom the promotional distribution is made. 1997, c. 43, Sched. D, s. 2; 2010, c. 1, Sched. 25, s. 1 (3).

### **Section Amendments with date in force (d/m/y)**

1993, c. 12, s. 2 (1, 4, 5) - 29/07/1993; 1993, c. 12, s. 2 (2) - 01/06/1989; 1994, c. 13, s. 2 (1, 3) - 01/07/1993; 1994, c. 13, s. 2 (2, 5, 6) - 20/05/1993; 1996, c. 29, s. 24 (1-3) - 09/12/1996; 1997, c. 43, Sched. D, s. 2 - 18/12/1997; 1998, c. 34, s. 93 - 21/02/1998

2000, c. 10, s. 25 - 03/05/2000

2002, c. 22, s. 171 (1, 2) - 19/07/2002; 2002, c. 22, s. 171 (3) - 01/01/2003

2005, c. 31, Sched. 19, s. 2 - 15/12/2005

2009, c. 34, Sched. R, s. 1 (1, 2) - 15/12/2009

## **Transitional rules re s. 2**

### **Definitions**

**2.0.0.1** (1) In this section,

“commercial parking” means the taxable service described in clause (e) of the definition of “taxable service” in subsection 1 (1); (“stationnement commercial”)

“consideration” means an amount that would be consideration for the purposes of Part IX of the *Excise Tax Act* (Canada) if “supply” in the definition of “consideration” in subsection 123 (1) of that Act were read as “sale” or “promotional distribution of an admission”, depending on the context; (“contrepartie”)

“specified purchaser” means a person who,

- (a) is a consumer within the meaning of subsection 123 (1) of the *Excise Tax Act* (Canada) in respect of the purchase of tangible personal property, a taxable service or an admission,
- (b) is not registered under Part IX of the *Excise Tax Act* (Canada) and is not a consumer within the meaning of subsection 123 (1) of that Act, or
- (c) satisfies such conditions as the Minister may prescribe. (“acheteur déterminé”) 2009, c. 34, Sched. R, s. 2.

### **When consideration, etc., becomes due**

(2) For the purposes of this section, an amount that is a payment or all or part of the consideration for tangible personal property, a taxable service or admission to a place of amusement becomes due on the earliest of:

1. The earlier of the day an invoice is first issued for that amount and the date of that invoice.
2. The day the invoice would have been issued for that amount but for an undue delay.
3. The day the purchaser is required to pay that amount pursuant to an agreement in writing. 2009, c. 34, Sched. R, s. 2.

### **Tangible personal property, sale after June 30, 2010**

(3) The following rules apply to a purchaser of tangible personal property if the time of the sale is after June 30, 2010:

1. Unless otherwise provided in this Act or the regulations, no tax is payable by the purchaser under subsection 2 (1) or (2).
2. Despite paragraph 1, tax is payable by the purchaser under subsection 2 (1) or (2), as the case may be,
  - i. if the purchaser is a specified purchaser and all or part of the consideration becomes due before May 1, 2010 or is paid before May 1, 2010 without having become due, or
  - ii. if the purchaser is not a specified purchaser and all or part of the consideration becomes due before October 15, 2009 or is paid before October 15, 2009 without having become due.
3. If paragraph 2 applies, the fair value for the purposes of subsection 2 (1) or (2), as the case may be, is deemed to be,
  - i. if the purchaser is a specified purchaser, the value of the consideration that becomes due before May 1, 2010 or that is paid before May 1, 2010 without having become due, or
  - ii. if the purchaser is not a specified purchaser, the value of the consideration that becomes due before October 15, 2009 or that is paid before October 15, 2009 without having become due. 2009, c. 34, Sched. R, s. 2; 2010, c. 1, Sched. 25, s. 2 (1, 2).

### **Taxable service provided only after June 30, 2010**

(4) The following rules apply to a purchaser of a taxable service, other than commercial parking, that is provided only after June 30, 2010:

1. Unless otherwise provided in this Act or the regulations, no tax is payable by the purchaser under subsection 2 (3) or (4).
2. Despite paragraph 1, tax is payable by the purchaser under subsection 2 (3) or (4), as the case may be,
  - i. if the purchaser is a specified purchaser and all or part of the consideration becomes due before May 1, 2010 or is paid before May 1, 2010 without having become due, or

- ii. if the purchaser is not a specified purchaser and all or part of the consideration becomes due before October 15, 2009 or is paid before October 15, 2009 without having become due.
- 3. If paragraph 2 applies, the fair value for the purposes of subsection 2 (3) or (4), as the case may be, is deemed to be,
  - i. if the purchaser is a specified purchaser, the value of the consideration that becomes due before May 1, 2010 or that is paid before May 1, 2010 without having become due, or
  - ii. if the purchaser is not a specified purchaser, the value of the consideration that becomes due before October 15, 2009 or that is paid before October 15, 2009 without having become due. 2009, c. 34, Sched. R, s. 2; 2010, c. 1, Sched. 25, s. 2 (3, 4).

**Rental payments and commercial parking payments, periods beginning after June 30, 2010**

(5) The following rules apply with respect to a rental payment for a period beginning after June 30, 2010 that is made by or on behalf of a purchaser who rents or leases a taxable service or acquires tangible personal property at a sale that is a lease or rental referred to in clause 2 (7) (b) and with respect to a payment for a period beginning after June 30, 2010 that is made by or on behalf of a purchaser for commercial parking:

- 1. Unless otherwise provided in this Act or the regulations, no tax is payable by the purchaser under section 2.
- 2. Despite paragraph 1, tax is payable by the purchaser under section 2,
  - i. if the purchaser is a specified purchaser and all or part of the payment becomes due before May 1, 2010 or is paid before May 1, 2010 without having become due, or
  - ii. if the purchaser is not a specified purchaser and all or part of the payment becomes due before October 15, 2009 or is paid before October 15, 2009 without having become due.
- 3. If paragraph 2 applies, the fair value for the purposes of section 2 is deemed to be,
  - i. if the purchaser is a specified purchaser, the fair value of the payment that becomes due before May 1, 2010 or that is paid before May 1, 2010 without having become due, or
  - ii. if the purchaser is not a specified purchaser, the fair value of the payment that becomes due before October 15, 2009 or that is paid before October 15, 2009 without having become due. 2009, c. 34, Sched. R, s. 2.

**Taxable service not substantially completed before July 1, 2010**

(6) The following rules apply to a purchaser of a taxable service, other than transient accommodation and commercial parking, that begins before July 1, 2010 and is not substantially completed before that day:

- 1. Unless otherwise provided in this Act or the regulations, no tax is payable by the purchaser under subsection 2 (3) in respect of the part of the taxable service provided after June 30, 2010.
- 2. Despite paragraph 1, tax is payable by the purchaser under subsection 2 (3),
  - i. if the purchaser is a specified purchaser and all or part of the consideration becomes due before May 1, 2010 or is paid before May 1, 2010 without having become due, or
  - ii. if the purchaser is not a specified purchaser and all or part of the consideration becomes due before October 15, 2009 or is paid before October 15, 2009 without having become due.
- 3. If paragraph 2 applies and the purchaser is a specified purchaser, the fair value for the purposes of subsection 2 (3) is deemed to be the sum of,
  - i. the value of the consideration that becomes due before May 1, 2010 or that is paid before May 1, 2010 without having become due, and
  - ii. the value of the consideration,
    - A. that relates to the part of the taxable service provided before July 1, 2010, and
    - B. that becomes due after April 30, 2010 or that is paid after April 30, 2010 without having become due before May 1, 2010.
- 4. If paragraph 2 applies and the purchaser is not a specified purchaser, the fair value for the purposes of subsection 2 (3) is deemed to be the sum of,
  - i. the value of the consideration that becomes due before October 15, 2009 or that is paid before October 15, 2009 without having become due before that day, and

- ii. the value of the consideration,
  - A. that relates to the part of the taxable service provided before July 1, 2010, and
  - B. that becomes due after October 14, 2009 or that is paid after October 14, 2009 without having become due before October 15, 2009. 2009, c. 34, Sched. R, s. 2.

**Rental payments and commercial parking payments, periods ending on or after July 31, 2010**

(7) The following rules apply with respect to a rental payment for a period ending on or after July 31, 2010 that is made by or on behalf of a purchaser who rents or leases a taxable service or acquires tangible personal property at a sale that is a lease or rental referred to in clause 2 (7) (b) and with respect to a payment for a period ending on or after July 31, 2010 that is made by or on behalf of a purchaser for commercial parking:

1. Unless otherwise provided in this Act or the regulations, no tax is payable by the purchaser under section 2 in respect of the part of the payment that relates to any part of the period that is after June 30, 2010.
2. Despite paragraph 1, tax is payable by the purchaser under section 2,
  - i. if the purchaser is a specified purchaser and all or part of the payment becomes due before May 1, 2010 or is paid before May 1, 2010 without having become due, or
  - ii. if the purchaser is not a specified purchaser and all or part of the payment becomes due before October 15, 2009 or is paid before October 15, 2009 without having become due.
3. If paragraph 2 applies and the purchaser is a specified purchaser, the fair value for the purposes of section 2 is deemed to be the sum of,
  - i. the fair value of the payment that becomes due before May 1, 2010 or that is paid before May 1, 2010 without having become due, and
  - ii. the fair value of the payment,
    - A. that relates to any part of the period that is before July 1, 2010, and
    - B. that becomes due after April 30, 2010 or that is paid after April 30, 2010 without having become due before May 1, 2010.
4. If paragraph 2 applies and the purchaser is not a specified purchaser, the fair value for the purposes of section 2 is deemed to be the sum of,
  - i. the fair value of the payment that becomes due before October 15, 2009 or that is paid before October 15, 2009 without having become due, and
  - ii. the fair value of the payment,
    - A. that relates to any part of the period that is before July 1, 2010, and
    - B. that becomes due after October 14, 2009 or that is paid after October 14, 2009 without having become due before October 15, 2009. 2009, c. 34, Sched. R, s. 2.

**Admission to place of amusement, only after June 30, 2010**

(8) The following rules apply to a purchaser of an admission to a place or places of amusement that begins after June 30, 2010:

1. Unless otherwise provided in this Act or the regulations, no tax is payable by the purchaser under subsection 2 (5).
2. Despite paragraph 1, tax is payable by the purchaser under subsection 2 (5),
  - i. if the purchaser is a specified purchaser and all or part of the consideration becomes due before May 1, 2010 or is paid before May 1, 2010 without having become due, or
  - ii. if the purchaser is not a specified purchaser and all or part of the consideration becomes due before October 15, 2009 or is paid before October 15, 2009 without having become due.
3. If paragraph 2 applies, the price of admission for the purposes of subsection 2 (5) is deemed to be,
  - i. if the purchaser is a specified purchaser, the value of the consideration that becomes due before May 1, 2010 or that is paid before May 1, 2010 without having become due, or



- ii. if the purchaser is not a specified purchaser, the value of the consideration that becomes due before October 15, 2009 or that is paid before October 15, 2009 without having become due. 2009, c. 34, Sched. R, s. 2.

**Admission to place of amusement, not substantially completed before July 1, 2010**

(9) The following rules apply to a purchaser of an admission to a place or places of amusement that relates to a period that begins before July 1, 2010 and is not substantially completed before that day:

1. Unless otherwise provided in this Act or the regulations, no tax is payable by the purchaser under subsection 2 (5) in respect of the price of admission that relates to the part of the period after June 30, 2010.
2. Despite paragraph 1, tax is payable by the purchaser under subsection 2 (5),
  - i. if the purchaser is a specified purchaser and all or part of the consideration becomes due before May 1, 2010 or is paid before May 1, 2010 without having become due, or
  - ii. if the purchaser is not a specified purchaser and all or part of the consideration becomes due before October 15, 2009 or is paid before October 15, 2009 without having become due.
3. If paragraph 2 applies and the purchaser is a specified purchaser, the price of admission for the purposes of subsection 2 (5) is deemed to be the sum of,
  - i. the value of the consideration that becomes due before May 1, 2010 or that is paid before May 1, 2010 without having become due, and
  - ii. the value of the consideration,
    - A. that relates to the part of the period that is before July 1, 2010, and
    - B. that becomes due after April 30, 2010 or that is paid after April 30, 2010 without having become due before May 1, 2010.
4. If paragraph 2 applies and the purchaser is not a specified purchaser, the price of admission for the purposes of subsection 2 (5) is deemed to be the sum of,
  - i. the value of the consideration that becomes due before October 15, 2009 or that is paid before October 15, 2009 without having become due, and
  - ii. the value of the consideration,
    - A. that relates to the part of the period that is before July 1, 2010, and
    - B. that becomes due after October 14, 2009 or that is paid after October 14, 2009 without having become due before October 15, 2009. 2009, c. 34, Sched. R, s. 2.

**Property brought into Ontario**

(10) Subsection 2 (18) does not apply to tangible personal property that is brought into Ontario after June 30, 2010. 2009, c. 34, Sched. R, s. 2.

**Time limit for collecting and paying tax**

- (11) Tax imposed under section 2 shall be collected by a vendor and paid by a purchaser at the earlier of,
- (a) the time the tax would otherwise be required under this Act to be collected and paid; and
  - (b) October 31, 2010. 2009, c. 34, Sched. R, s. 2.

**Limitation on refunds**

(12) The following rules apply for the purposes of determining the amount of tax to be refunded under subsection 2 (11) or (16) if a purchaser paid tax under section 2 in respect of tangible personal property that is returned to the vendor after June 30, 2010 but before November 1, 2010:

1. If the tangible personal property is returned for a full refund of the consideration previously paid, the tax paid in respect of the sale may be refunded to the purchaser.
2. If the tangible personal property is exchanged for other tangible personal property having a consideration that is less than the consideration paid for the original tangible personal property, the tax that was paid in respect of the difference in consideration may be refunded to the purchaser.

3. If the tangible personal property is exchanged for other tangible personal property and the amount of the consideration paid for the original tangible personal property is equal to or less than the amount of the consideration for the other tangible personal property, no tax shall be refunded. 2009, c. 34, Sched. R, s. 2.

#### **Time limit for applications for refunds**

(13) Applications for refunds or rebates in respect of tax imposed under this Act, other than applications for refunds or rebates in respect of tax imposed under section 2.1, 2.1.1 or 4.2, must be made to the Minister on or before the earlier of,

- (a) the day that would otherwise be the last day on which the application may be made under the applicable provision of this Act or the regulations; and
- (b) December 31, 2012. 2012, c. 8, Sched. 54, s. 1.

#### **No extension of time**

(14) In respect of an application described in subsection (13), the Minister shall not grant an extension under subsection 2 (15) permitting an application to be made after December 31, 2012. 2012, c. 8, Sched. 54, s. 1.

#### **Section Amendments with date in force (d/m/y)**

2009, c. 34, Sched. R, s. 2 - 15/12/2009

2010, c. 1, Sched. 25, s. 2 (1-4) - 18/05/2010

2012, c. 8, Sched. 54, s. 1 - 20/06/2012

#### **Progress payments**

**2.0.1** Despite section 2.0.0.1, the tax imposed under subsection 2 (1) or (3) shall apply in the manner prescribed by the Minister if,

- (a) a purchaser acquires tangible personal property or a taxable service under a contract to construct, renovate, alter or repair real property, a ship or a vessel; and
- (b) progress payments under the contract with respect to the tangible personal property or taxable service become due or are paid without becoming due after October 14, 2009 and before July 1, 2010. 2009, c. 34, Sched. R, s. 3.

#### **Section Amendments with date in force (d/m/y)**

2000, c. 10, s. 24 - 03/05/2000

2009, c. 34, Sched. R, s. 3 - 15/12/2009

#### **Simplified tax calculation, computer services**

##### **Definition**

**2.0.2** (1) In this section,

“eligible service contract” means a contract for the provision for a single price of,

- (a) taxable services described in clause (c.1) or (d.1) of the definition of “taxable service” in subsection 1 (1), and
- (b) non-taxable services relating to computer programs. 2005, c. 31, Sched. 19, s. 3.

#### **Minister may establish program**

(2) Despite subsection 2 (3), the Minister may establish a program under which the tax payable under this Act in respect of an eligible service contract shall be calculated at the rate of 6 per cent of the fair value of the eligible service contract and not at the rate of 8 per cent of the fair value of the taxable services provided in accordance with the contract. 2005, c. 31, Sched. 19, s. 3.

#### **Same**

(3) A program established under this section shall apply in respect of eligible service contracts entered into during the period of time determined by the Minister to which the program applies. 2005, c. 31, Sched. 19, s. 3.

#### **Eligible vendors**

(4) The Minister shall determine the classes of vendors who are eligible to collect tax calculated in accordance with this section in respect of eligible service contracts. 2005, c. 31, Sched. 19, s. 3.

### **Application**

(5) A vendor who belongs to a class of vendors referred to in subsection (4) may apply to the Minister to be authorized to collect tax calculated in accordance with this section in respect of eligible service contracts. 2005, c. 31, Sched. 19, s. 3.

### **Obligation to pay tax calculated under this section**

(6) A purchaser shall pay tax in the amount calculated under this section in respect of an eligible service contract and the vendor shall collect tax in the amount calculated under this section in respect of the contract if,

- (a) the vendor is authorized by the Minister to collect tax calculated in accordance with this section in respect of eligible service contracts; and
- (b) the purchaser consents to pay tax in respect of the eligible service contract in the amount calculated under this section and not in the amount that would otherwise be payable under subsection 2 (3). 2005, c. 31, Sched. 19, s. 3.

### **Section Amendments with date in force (d/m/y)**

2005, c. 31, Sched. 19, s. 3 - 15/12/2005

### **Tax on insurance, etc.**

**2.1** (1) Every person who is resident in Ontario, or who carries on business in Ontario, and who,

- (a) enters into a contract of insurance with an insurer;
- (b) is a person whose risk is covered by group insurance;
- (c) is a planholder or member of a benefits plan; or
- (d) is required to contribute to an insurance scheme or a compensation fund established by or under any Act of the Parliament of Canada or the Legislature of Ontario,

shall pay to Her Majesty in right of Ontario a tax at the rate of 8 per cent of the premium payable. 1994, c. 13, s. 3.

### **Same**

(2) Every person who is resident in Ontario, or who carries on business in Ontario and who is the holder of group insurance shall pay to Her Majesty in right of Ontario a tax at the rate of 8 per cent of the premium payable by the person less the premiums, if any, paid to the person by those whose risks are covered by the policy. 1994, c. 13, s. 3.

### **Treatment of non-residents**

(3) Every person who is not a resident of Ontario, or who does not carry on business in Ontario, and,

- (a) who enters into a contract of insurance with an insurer in respect of individuals who are ordinarily resident in Ontario, real property in Ontario or personal property ordinarily situated in Ontario; or
- (b) who is a planholder in respect of members who are ordinarily resident in Ontario and who are not employees of the planholder,

shall pay to Her Majesty in right of Ontario a tax at the rate of 8 per cent of the premium payable. 1994, c. 13, s. 3.

### **Same**

(4) Every person who is not a resident of Ontario or who does not carry on business in Ontario, but who is the holder of group insurance covering risks of persons who are ordinarily resident in Ontario and who are not employees of the holder, shall pay to Her Majesty in right of Ontario a tax at the rate of 8 per cent of the premiums payable by the person less the premiums, if any, paid to the person by those persons in Ontario whose risks are covered by the policy. 1994, c. 13, s. 3.

(5)-(7) REPEALED: 2008, c. 7, Sched. R, s. 2 (1).

### **Exemptions**

(8) Despite this section, no tax is payable on premiums for,

- (a) contracts of reinsurance;
- (b) contracts of insurance on agricultural property as defined by the Minister where the property is used by a person who is engaged in the business of farming;
- (c) contracts of insurance (other than contracts of group insurance or trip cancellation insurance) for the life, health or physical well-being of insured individuals;

- (c.1) contracts of automobile insurance with respect to motor vehicles required to be insured under the *Compulsory Automobile Insurance Act*;
  - (d) marine insurance, as defined under the *Insurance Act*, in respect of a vessel where the purchaser of the vessel is exempt from tax under paragraphs 29, 30 and 61 of subsection 7 (1);
  - (e) contracts of insurance in respect of aircraft where the purchaser of the aircraft is exempt from tax under paragraph 22 of subsection 7 (1);
  - (f) contracts of insurance entered into by an Indian, a band or the council of a band in respect of real or personal property situated on a reserve or in respect of an Indian ordinarily resident on a reserve, or a benefits plan or contracts of group insurance where the person whose risk is covered is an Indian ordinarily resident on a reserve;
  - (g) the purchase of an annuity contract;
  - (h) the obtaining of a surety;
  - (i) a contract for the service, maintenance or warranty of tangible personal property;
  - (j) a contract of insurance entered into by an employer in respect of employees who ordinarily work outside Ontario or whose salary is ordinarily paid outside Ontario, or in respect of former employees who are no longer resident in Ontario;
  - (k) a contract of insurance entered into by a person in respect of an individual who is not ordinarily resident in Ontario;
  - (l) property insurance, as defined under the *Insurance Act*, in respect of property that is wholly outside Ontario or other insurance (but not group insurance) in respect of a risk, peril or events wholly outside Ontario;
  - (m) any contract of insurance that may be prescribed. 1994, c. 13, s. 3; 2004, c. 31, Sched. 33, s. 2; 2008, c. 7, Sched. R, s. 2 (2, 3).
- (9) REPEALED: 2010, c. 26, Sched. 17, s. 3 (1).

#### **Further exemptions**

(10) Despite subsection (1), no tax is payable on premiums, assessments or contributions paid pursuant to the *Canada Pension Plan*, the *Credit Unions and Caisses Populaires Act, 2020*, the *Agricultural Products Insurance Act, 1996*, the *Employment Insurance Act* (Canada), the *Workplace Safety and Insurance Act, 1997* or any other statute that is prescribed by the regulations. 2009, c. 34, Sched. R, s. 4; 2015, c. 6, s. 11; 2020, c. 36, Sched. 7, s. 335.

#### **Same**

(10.1) Despite this section, no tax is payable after October 14, 2009 on any portion of a premium that is subject to tax under subsection 165 (2) of the *Excise Tax Act* (Canada). 2010, c. 1, Sched. 25, s. 3.

#### **When tax payable**

(11) With respect to a premium referred to in clause (a), (b) or (c) of the definition of “premium” in subsection 1 (1), the tax payable under this section shall be collected by the vendor when the premium is paid to the vendor. 1994, c. 13, s. 3.

#### **Same**

- (12) With respect to a premium referred to in clause (d) of the definition of “premium” in subsection 1 (1),
  - (a) the tax under this section shall be collected by the vendor at the time the planholder paid the premium referred to in subclause (d) (i) of the definition to the vendor, or at the time the member paid the premium referred to in subclause (d) (ii) of the definition to the vendor; or
  - (b) where the planholder also administers the plan, the tax under this section shall be collected at the time the planholder received from the member the premium referred to in subclause (d) (ii) of the definition, and the planholder shall pay the tax on the premium referred to in subclause (d) (i) of the definition at the time the planholder paid any premium to or on behalf of the member at the time or times and in the manner prescribed in the regulations. 1994, c. 13, s. 3.

#### **Same**

- (13) With respect to a premium referred to in clause (e) of the definition of “premium” in subsection 1 (1),
  - (a) the tax under this section shall be collected by the vendor at the time the planholder paid the premium referred to in subclause (e) (i) of the definition to the vendor, or at the time the member paid the premium referred to in subclause (e) (ii) of the definition to the vendor; or

- (b) where the planholder also administers the plan, the tax shall be collected at the time the planholder received from the member the premium referred to in subclause (e) (ii) of the definition, and the planholder shall pay the tax on the premium referred to in subclause (e) (i) of the definition at the time and in the manner prescribed in the regulations. 1994, c. 13, s. 3.

#### **Accounting by person liable to pay tax**

(14) Every person who is liable to pay tax under this section, but who is obliged to pay the premium to a vendor who does not carry on business in Ontario, shall remit the tax payable by that person to the Minister at the time or times and in the manner prescribed by the regulations. 1994, c. 13, s. 3.

#### **Person deemed purchaser**

(15) Every person who is liable to pay tax under this section shall be deemed to be a purchaser for the purposes of assessment, collection and enforcement of this Act. 1994, c. 13, s. 3.

#### **Apportionment of premium**

(16) Where a contract of insurance (other than group insurance) relates to a risk, peril or events both in Ontario and outside Ontario, the tax payable under this section shall be calculated only upon the portion of the premium relating to the risk, peril or events in Ontario determined in the manner prescribed by the Minister. 1994, c. 13, s. 3.

#### **Same**

(17) Where a contract of insurance relates to a risk, peril or event that is taxable and exempt from tax or that is taxed at different rates under this section, the portion of the premium that is taxable or that is taxable at a particular rate shall be determined in the manner prescribed by the Minister. 1994, c. 13, s. 3.

#### **Same**

(18) Tax payable under this section shall be calculated only upon the premium related to members of a benefits plan who, if they are employees of the planholder, work at a location in Ontario or who are paid through a location in Ontario or if they are not members by reason of their employment, are ordinarily resident in Ontario. 1994, c. 13, s. 3.

#### **Initial designation of benefit plans as funded or unfunded**

(19) A planholder who establishes a new benefits plan on or after November 18, 2010, other than a qualifying trust, shall designate in writing, in the manner required by the Minister, whether the benefits plan is intended to be a funded benefits plan or an unfunded benefits plan and, when the designation is made in the required manner, the plan is deemed to be so designated for the purposes of this Act unless the designation is changed under subsection (20). 2010, c. 26, Sched. 17, s. 3 (2).

#### **Change of designation**

(20) If the planholder of a funded benefits plan or an unfunded benefits plan gives written notice to the Minister, in the manner required by the Minister, that the plan is changed and that the designation of the plan is changed, the designation is deemed to be so changed on the day the Minister receives the notice. 2010, c. 26, Sched. 17, s. 3 (2).

#### **Transition**

(21) Subsection (20) applies with respect to benefits plans initially designated under this section before, on or after November 18, 2010. 2010, c. 26, Sched. 17, s. 3 (2).

#### **Effect of change in designation**

(22) The following rules apply if the designation of a benefits plan is changed under subsection (20):

1. If, after the change, the plan is designated as an unfunded benefits plan, no tax is payable under subsection (1) on benefits paid out of the benefits plan on or after the effective date of the change that may reasonably be attributed to premiums paid into the benefits plan on which tax has previously been paid.
2. If, after the change, the plan is designated as a funded benefits plan,
  - i. tax is payable under subsection (1) on the total amount in the benefits plan at the time the change in the designation takes effect, and
  - ii. the planholder shall remit the tax referred to in subparagraph i in the same manner and at the same time any tax payable or collected under this section is to be remitted. 2010, c. 26, Sched. 17, s. 3 (2).

#### **Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 3 - 20/05/1993; 1997, c. 16, s. 16 - 01/01/1998

2000, c. 10, s. 26 (1, 2) - 03/05/2000

2004, c. 31, Sched. 33, s. 2 (1, 2) - 30/04/2007

2006, c. 33, Sched. Z.4, s. 2 - 20/12/2006

2008, c. 7, Sched. R, s. 2 (1-3) - 14/05/2008

2009, c. 34, Sched. R, s. 4 - 15/12/2009

2010, c. 1, Sched. 25, s. 3 - 18/05/2010; 2010, c. 26, Sched. 17, s. 3 (1) - 08/12/2010; 2010, c. 26, Sched. 17, s. 3 (2) - 18/11/2010

2015, c. 6, s. 11 - 01/09/2015

2020, c. 36, Sched. 7, s. 335 - 01/03/2022

## **2.1.1**

### **Section Amendments with date in force (d/m/y)**

2009, c. 34, Sched. R, s. 5 (3) - no effect - see Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2019

2010, c. 1, Sched. 25, s. 4 - no effect - see 2009, c. 34, Sched. R, s. 5 (3) - 31/12/2019

### **Definitions re returning resident**

**2.2 (1)** In sections 2.3 to 2.6,

“collection agent” means,

- (a) an officer as defined in section 2 of the *Customs Act* (Canada) who is employed at a customs office in Ontario,
- (b) subject to subsection (2), the Canada Post Corporation, or
- (c) subject to subsection (2), a collection agent for the Canada Post Corporation; (“agent de perception”)

“returning resident” means a person who,

- (a) resides, ordinarily resides or carries on business in Ontario, and
- (b) brings specified tangible personal property into Ontario from outside Canada, causes it to be so brought or receives delivery of it in Ontario from outside Canada,
  - (i) for his, her or its own consumption or use,
  - (ii) for consumption or use by another person at his, her or its own expense, or
  - (iii) on behalf of or as agent for a principal for consumption or use by the principal or by another person at the principal’s expense,

but does not include the holder of a certificate of Indian status issued by the Government of Canada who provides a declaration that the specified tangible personal property is being imported for use or consumption on a reserve by an Indian, a band or the council of the band; (“résident de retour”)

“specified tangible personal property” means tangible personal property (including such tangible personal property as the Minister may prescribe to be specified tangible personal property) other than,

- (a) vehicles, as defined by the Minister,
- (b) tangible personal property that, if purchased in Ontario by the returning resident, would be exempt from tax under this Act, or
- (c) tangible personal property prescribed by the Minister to be property that is not specified tangible personal property. (“bien meuble corporel précisé”) 1997, c. 10, s. 31; 1998, c. 5, s. 42; 2010, c. 26, Sched. 17, s. 4.

### **Restriction**

(2) The Canada Post Corporation and its collection agents are collection agents under this Act only when an agreement is in force between the Minister of National Revenue and the Corporation providing for the collection of taxes by the Corporation. 1997, c. 10, s. 31.

### **Section Amendments with date in force (d/m/y)**

1997, c. 10, s. 31 - 01/02/1999; 1998, c. 5, s. 42 (1, 2) - 26/06/1998

2010, c. 26, Sched. 17, s. 4 - 08/12/2010

### **Tax payable by returning resident**

**2.3** (1) This section applies when a returning resident brings specified tangible personal property into Ontario from outside Canada, causes it to be so brought or receives delivery of it in Ontario from outside Canada in the circumstances described in the definition of returning resident.

### **Restriction**

(2) This section applies only when an agreement described in section 2.5 is in force between the Minister and the Government of Canada.

### **Information and taxes**

(3) Upon bringing the specified tangible personal property or causing it to be brought into Ontario or upon receiving delivery of it, the returning resident shall,

- (a) make such report to a collection agent as he, she or it may require with respect to the property;
- (b) give the collection agent all the information he, she or it may require in respect of the property; and
- (c) remit the tax payable on the property to the collection agent as agent for the Minister.

### **Amount of tax**

(4) The tax payable on the specified tangible personal property by the returning resident is the amount specified in subsection 2 (1) or, in the case of liquor, beer or wine, the amount specified in clause 2 (2) (b).

### **Exception**

(5) No tax is payable on specified tangible personal property in respect of which no tax is payable under Division III of Part IX of the *Excise Tax Act* (Canada), as that Division is amended from time to time. 1997, c. 10, s. 31.

### **Application for refund**

(6) Subject to clause 2.5 (4) (b), a returning resident may apply under subsection 2 (11) for a refund of an amount paid under this section as tax that is not payable as tax. 1998, c. 5, s. 43.

(7) REPEALED: 1998, c. 5, s. 43.

### **Section Amendments with date in force (d/m/y)**

1997, c. 10, s. 31 - 01/02/1999; 1998, c. 5, s. 43 - 26/06/1998

### **Returning resident, failure to report or pay tax**

**2.4** (1) If a returning resident fails or refuses to comply with subsection 2.3 (3), the collection agent may detain the specified tangible personal property until the earlier of,

- (a) the date on which the tax on the specified tangible personal property and the costs, if any, relating to its detention are paid; or
- (b) the expiry of 60 days after the detention begins.

### **Return of property**

(2) If the tax is paid before the expiry of the 60-day period, the specified tangible personal property shall be returned to the returning resident.

### **Forfeiture of property**

(3) If the tax is not paid before the expiry of the 60-day period, the specified tangible personal property is forfeit to Her Majesty in right of Ontario and may be disposed of as directed by the Minister. 1997, c. 10, s. 31.

### **Section Amendments with date in force (d/m/y)**

1997, c. 10, s. 31 - 01/02/1999

### **Returning residents, agreement with federal government**

**2.5** (1) The Minister (on behalf of Her Majesty in right of Ontario) may enter into an agreement with the Government of Canada respecting the administration and enforcement of this Act in respect of specified tangible personal property,

- (a) that is brought or caused to be brought into Ontario from outside Canada by a returning resident; or

- (b) that is delivered in Ontario from outside Canada to a returning resident.

#### **Compensation**

- (2) The agreement may authorize payment to the Government of Canada in respect of services under the agreement.

#### **Payments**

- (3) Payments in respect of the ongoing costs of services under the agreement shall be paid out of the amounts collected on behalf of the Minister. 1997, c. 10, s. 31.

#### **Authorization**

- (4) The Government of Canada may, as agent of Her Majesty in right of Ontario, act in accordance with the agreement,
  - (a) to collect tax owing in respect of specified tangible personal property that is released from customs without payment of all or part of the tax; and
  - (b) to refund an amount charged or collected by a collection agent that is in excess of the amount of tax payable in respect of the specified tangible personal property. 1997, c. 10, s. 31; 1998, c. 5, s. 44.

#### **Section Amendments with date in force (d/m/y)**

1997, c. 10, s. 31 - 01/02/1999; 1998, c. 5, s. 44 - 26/06/1998

#### **Immunity of collection agent**

**2.6** (1) No action or proceeding shall be brought against a collection agent in respect of an act done or omitted to be done in good faith by the collection agent,

- (a) in the performance or intended performance of a duty under this Act or under an agreement described in section 2.5; or
- (b) in the exercise or intended exercise of a power under this Act or under an agreement described in section 2.5. 1997, c. 10, s. 31.

#### **Liability of the Crown**

- (2) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (1) does not relieve the Crown of a liability to which it would otherwise be subject in respect of a tort. 2001, c. 23, s. 190; 2019, c. 7, Sched. 17, s. 155.

#### **Section Amendments with date in force (d/m/y)**

1997, c. 10, s. 31 - 01/02/1999

2001, c. 23, s. 190 - 05/12/2001

2019, c. 7, Sched. 17, s. 155 - 01/07/2019

#### **Tax on multijurisdictional vehicles**

- 3** (1) In this section,

“repair parts” means,

- (a) replacement parts designed and manufactured specifically for use on a multijurisdictional vehicle or a trailer used with a multijurisdictional vehicle, and
- (b) parts purchased as part of a repair work order for a multijurisdictional vehicle or for a trailer that is used with a multijurisdictional vehicle. 2001, c. 23, s. 191 (1).

#### **Tax payable on registration of vehicle**

- (2) Every registrant of a multijurisdictional vehicle shall pay a tax to Her Majesty in right of Ontario in respect of the use in Ontario of the vehicle for each registration year during which the vehicle is registered under the International Registration Plan. 2001, c. 8, s. 228.

#### **Exception**

- (2.1) Unless otherwise provided in this Act or the regulations, no tax is payable under subsection (2) by a registrant if the registration year begins on or after July 1, 2010. 2009, c. 34, Sched. R, s. 6.



**When tax is payable**

(3) The tax payable under subsection (2) for a registration year must be paid when the multijurisdictional vehicle is registered in Ontario or in a member jurisdiction under the International Registration Plan for the registration year to which the tax relates. 2001, c. 8, s. 228.

**Amount of tax**

(4) The amount of tax payable under subsection (2) by a registrant for a registration year is calculated in the manner prescribed by the Minister, and the Minister may make regulations prescribing different rates of tax for the purposes of subsection (2) and the circumstances in which each rate of tax applies. 2001, c. 8, s. 228.

**No tax payable under s. 2**

(5) A registrant is not liable to pay tax under section 2 in respect of the following:

1. A multijurisdictional vehicle purchased or used in Ontario and registered under the International Registration Plan, for which tax is paid under this section.
2. A trailer used or to be used with a multijurisdictional vehicle described in paragraph 1.
3. A taxable service, within the meaning of clause (c) or (d) of the definition of “taxable service” in subsection 1 (1), that is rendered in respect of a multijurisdictional vehicle or trailer described in paragraphs 1 or 2.
4. Repair parts that are purchased to be incorporated into a multijurisdictional vehicle or trailer described in paragraphs 1 or 2. 2001, c. 8, s. 228.

(6) REPEALED: 2001, c. 23, s. 191 (2).

**Relief from double taxation**

(7) The Minister may make regulations providing for refunds or credits for purchasers who paid tax under section 2 in respect of multijurisdictional vehicles, and providing for the terms and conditions under which the refunds or credits are paid or allowed and rules for determining the amount. 2001, c. 8, s. 228.

**Same**

(8) The Minister may make regulations providing for refunds or credits of tax paid under subsection (2) to relieve double taxation and prescribing circumstances in which a refund or credit may be paid or allowed and rules for determining the amount. 2001, c. 8, s. 228.

**Tax if cease to be registered**

(9) If a multijurisdictional vehicle ceases to be registered under the International Registration Plan, the owner of the vehicle that is liable to pay tax under section 2 shall pay the tax, at the time and in the manner prescribed by the Minister, calculated on a value equal to the sum of,

- (a) the depreciated value of the vehicle, determined in the manner prescribed by the Minister; and
- (b) the fair value of the repair parts purchased by the owner to be incorporated into the vehicle, if the parts have not been incorporated into the vehicle. 2001, c. 8, s. 228; 2001, c. 23, s. 191 (3, 4).

**No tax if cease to be registered after June 30, 2010**

(9.1) No tax is payable in circumstances described in subsection (9) if the vehicle ceases to be registered after June 30, 2010, unless otherwise provided in this Act or the regulations. 2010, c. 1, Sched. 25, s. 5.

**Refund or credit on change in use**

(10) If an owner is required under subsection (9) to pay tax under section 2, the Minister may pay a refund or allow a credit to the owner for tax paid under subsection (2) in the amount, if any, determined under rules prescribed by the Minister, if the owner applies for a refund or credit and provides such material as the Minister may require to prove the owner's entitlement to the refund or credit. 2001, c. 8, s. 228; 2001, c. 23, s. 191 (5).

**Owner's status as purchaser**

(11) In the circumstances described in subsections (9) and (10), the owner shall be deemed to be a purchaser for the purposes of the following provisions:

1. Subsections 18 (2), (3) and (5) (assessment).
2. Subsection 20 (7) (penalty).

3. Clauses 31 (1) (c) and (2) (c) (investigations).
4. Clauses 32 (4) (b) and (c) (offences).
5. Subclause 34 (2) (a) (i) (calculation of interest).
6. Subsection 37 (1) (recovery of tax).
7. Clause 48 (3) (b) (regulations re record-keeping). 2001, c. 23, s. 191 (6).

### **Conditional exemption**

(12) If the owner or lessee of a multijurisdictional vehicle transfers it to a person who is in a prescribed relationship to the owner or lessee, as the case may be, the tax under this section is payable in accordance with the regulations. 2001, c. 23, s. 191 (6).

### **Section Amendments with date in force (d/m/y)**

2001, c. 8, s. 228 - 01/10/2001; 2001, c. 23, s. 191 (1-6) - 01/10/2001

2009, c. 34, Sched. R, s. 6 - 15/12/2009

2010, c. 1, Sched. 25, s. 5 - 01/07/2010

### **Tax on beer or wine production**

**3.1** (1) Every person who produces beer or wine at a vendor's premises,

- (a) for the person's own consumption or use or for the consumption or use in Ontario of other persons at the first mentioned person's expense; or
- (b) on behalf of or as agent for a principal who desires to acquire such beer or wine for consumption or use in Ontario by such principal or others at the principal's expense,

shall pay to Her Majesty in right of Ontario a tax of,

- (c) \$0.26 per litre of beer or wine delivered to the person on or after August 1, 1993 and before April 19, 1994;
- (d) \$0.13 per litre of beer or wine delivered to the person on or after April 19, 1994 and before July 1, 2010. 1994, c. 13, s. 5; 2009, c. 34, Sched. R, s. 7.

### **Tax to be collected**

(2) The person shall pay the tax imposed under subsection (1) and the vendor shall collect the tax at the time of sale. 1994, c. 13, s. 5.

### **Tax otherwise payable**

(3) The payment of tax under this section does not relieve the person from liability to pay any tax otherwise imposed by this Act. 1994, c. 13, s. 5.

### **Person liable deemed purchaser**

(4) Every person liable to pay tax under this section shall be deemed to be a purchaser for the purposes of assessment, collection and enforcement of this Act. 1994, c. 13, s. 5.

### **Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 5 - 01/08/1993

2009, c. 34, Sched. R, s. 7 - 15/12/2009

### **Tax for fuel conservation**

**4** (1) Every purchaser of a new passenger vehicle or sport utility vehicle shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use of the vehicle in the amount determined under subsection (5) or (6) if,

- (a) the first sale of the vehicle is a retail sale to the purchaser in Ontario before July 1, 2010;
- (b) the first sale of the vehicle is a rental or lease to the purchaser in Ontario for a term of at least one year commencing before July 1, 2010;
- (c) the first sale of the vehicle is outside Ontario and before July 1, 2010 the vehicle is brought into Ontario by the purchaser or delivered in Ontario to the purchaser; or

- (d) the first sale of the vehicle in Ontario is a lease or rental of the vehicle for a term of less than one year to the purchaser or another person and the purchaser leases or rents the vehicle within 180 days of the first sale but before July 1, 2010. 2009, c. 34, Sched. R, s. 8 (1).

### Definitions

(2) In this section,

“passenger vehicle” and “sport utility vehicle” mean a vehicle or type of vehicle determined by the Minister to be a passenger vehicle or a sport utility vehicle and in respect of which the Minister determines that a highway fuel consumption rating of 6.0 or more litres of gasoline or diesel fuel per 100 kilometres applies. 1997, c. 19, s. 22 (1).

### Exception

(3) Subsection (1) does not apply in respect of a vehicle that is a settler’s effect referred to in paragraph 58 of subsection 7 (1) or tangible personal property referred to in paragraph 59 of subsection 7 (1). 1992, c. 13, s. 2.

(4) REPEALED: 2009, c. 34, Sched. R, s. 8 (2).

### Amount of tax, passenger vehicle

(5) The amount of tax payable by a purchaser of a passenger vehicle is the amount of tax appearing in the following table opposite the range of highway fuel consumption ratings that includes the highway fuel consumption rating determined by the Minister to apply to the passenger vehicle:

TABLE

| Column 1<br>Litres per 100 kilometres | Column 2<br>Tax |
|---------------------------------------|-----------------|
| 6.0 or more but less than 9.0         | \$75            |
| 9.0 or more but less than 9.5         | \$250           |
| 9.5 or more but less than 12.1        | \$1,200         |
| 12.1 or more but less than 15.1       | \$2,400         |
| 15.1 or more but less than 18.1       | \$4,400         |
| 18.1 or more                          | \$7,000         |

1992, c. 13, s. 2; 1997, c. 19, s. 22 (2).

### Amount of tax, sport utility vehicle

(6) The amount of tax payable by a purchaser of a sport utility vehicle is the amount of tax appearing in the following table opposite the range of highway fuel consumption ratings that includes the highway fuel consumption rating determined by the Minister to apply to the sport utility vehicle:

TABLE

| Column 1<br>Litres per 100 kilometres | Column 2<br>Tax |
|---------------------------------------|-----------------|
| less than 8.0                         | \$0             |
| 8.0 or more but less than 9.0         | \$75            |
| 9.0 or more but less than 9.5         | \$200           |
| 9.5 or more but less than 12.1        | \$400           |
| 12.1 or more but less than 15.1       | \$800           |
| 15.1 or more but less than 18.1       | \$1,600         |
| 18.1 or more                          | \$3,200         |

1992, c. 13, s. 2; 1997, c. 19, s. 22 (3).

### Application of subs. (5) or (6)

(7) Despite subsection (5) or (6), but subject to subsection (8), the total amount of tax payable under this section by all purchasers referred to in clause (1) (d) in respect of the same vehicle shall not exceed the amount of tax otherwise determined under this section, and each purchaser shall pay such proportion of the total amount of tax that, in the opinion of the Minister, reasonably represents the use of the vehicle by that purchaser during the 180 days referred to in the clause. 1992, c. 13, s. 2; 2009, c. 34, Sched. R, s. 8 (3).

### If leasing vehicle before and after July 1, 2010

(8) A lessor of a vehicle referred to in clause (1) (d) may, in lieu of collecting and remitting the tax required to be paid by purchasers as specified under subsection (7), pay an amount equal to the tax on the vehicle as specified in subsection (5) or

(6), multiplied by the ratio of the number of days the lessor owned the vehicle before July 1, 2010 to 180 and, on payment of that amount, the purchasers of the vehicle are not liable to pay tax under this section. 2009, c. 34, Sched. R, s. 8 (4).

#### **Time of payment**

(8.1) Under this section, but subject to subsection (8), a purchaser who is the lessee of a new passenger vehicle or sport utility vehicle shall pay the tax imposed by subsection (1) on the due date of the first lease or rental payment made by or on behalf of the purchaser in respect of the lease or rental of the vehicle. 1993, c. 12, s. 4.

#### **Same**

(8.2) For the purposes of subsection (8), the lessor shall pay the tax at the time the vehicle is sold to the lessor. 1993, c. 12, s. 4.

#### **Rebates and assessment of tax**

(9) If the highway fuel consumption rating of a vehicle, as determined by the Minister, is subsequently determined, in a manner prescribed by the Minister, to be less than or greater than the rating used in the determination of the amount of tax payable by the purchaser under this section, the Minister may,

- (a) if the subsequent rating is less, rebate with interest to the purchaser, upon receipt of an application therefor in the manner and within the time prescribed by the Minister, the amount of tax paid by the purchaser under this section in excess of the amount of tax that would have been determined using the subsequent rating; or
- (b) if the subsequent rating is greater, assess or reassess the tax payable by the purchaser under this section together with interest from the date the vehicle was acquired. 1992, c. 13, s. 2; 1997, c. 19, s. 22 (4).

#### **Reporting by manufacturers and importers**

(10) Every manufacturer or importer of vehicles who intends to sell in Ontario before July 1, 2010 a passenger vehicle or sport utility vehicle or a type of either of them shall provide to the Minister at least 30 days before the date of the sale of the vehicle or the first sale of the type of vehicle, as the case may be, in Ontario such information as is prescribed by the Minister to permit the Minister to determine the highway fuel consumption rating for the vehicle or type of vehicle. 2009, c. 34, Sched. R, s. 8 (5).

(11) REPEALED: 2009, c. 34, Sched. R, s. 8 (5).

#### **Offence**

(12) Every person who fails to comply with subsection (10) or (11) is guilty of an offence and on conviction is liable to a fine of not less than \$1,000 and not more than \$10,000 plus, if the conviction is for the offence of failing to comply with subsection (11), an amount equal to the tax imposed by this section in respect of each vehicle or each vehicle of the type of vehicle to which the conviction relates that is sold in Ontario at a retail sale before the Minister makes a determination that the vehicle or type of vehicle is a passenger vehicle or sport utility vehicle for the purposes of this section. 2006, c. 33, Sched. Z.4, s. 3.

#### **Saving**

(13) No person shall be convicted of an offence under subsection (12) unless the court is satisfied that, on the balance of probabilities, it was reasonable to assume that the vehicle or type of vehicle, the information on which was not provided under subsection (10) or not provided prior to the time specified in subsection (11), had a highway fuel consumption rating of 6.0 or more litres of gasoline or diesel fuel per 100 kilometres. 1992, c. 13, s. 2.

#### **Section Amendments with date in force (d/m/y)**

1992, c. 13, s. 2 - 01/08/1991; 1993, c. 12, s. 4 - 01/08/1991; 1997, c. 19, s. 22 (1-4) - 10/10/1997

2006, c. 33, Sched. Z.4, s. 3 - 20/12/2006

2009, c. 34, Sched. R, s. 8 (1-5) - 15/12/2009

#### **Tax credit for fuel conservation**

**4.1** (1) Every purchaser of a new passenger car is entitled to a tax credit of \$100 to be applied against the purchaser's liability for tax under section 2 if,

- (a) the first sale of the new passenger car is a retail sale to the purchaser in Ontario before July 1, 2010;
- (b) the first sale of the new passenger car is a rental or lease to the purchaser in Ontario for a term commencing before July 1, 2010;

- (c) the first sale of the new passenger car is outside Ontario and before July 1, 2010 the vehicle is brought into Ontario by the purchaser or delivered in Ontario to the purchaser; or
- (d) the first sale of the new passenger car in Ontario is a lease or rental of the vehicle for a term of less than one year to the purchaser or another person and the purchaser leases or rents the vehicle within 180 days of the first sale but before July 1, 2010. 2009, c. 34, Sched. R, s. 9 (1).

#### **Definition**

(2) In this section,

“passenger car” means a vehicle or type of vehicle determined by the Minister to be a passenger car and in respect of which the Minister determines that a highway fuel consumption rating of less than 6.0 litres of gasoline or diesel fuel per 100 kilometres applies. 1997, c. 19, s. 22 (5).

(3) REPEALED: 2009, c. 34, Sched. R, s. 9 (2).

#### **Application of clause (1) (d)**

(4) The total amount of the tax credit payable under this section to all purchasers referred to in clause (1) (d) in respect of the same passenger car shall not exceed \$100, and each purchaser is entitled to receive the proportion of the tax credit that, in the opinion of the Minister, reasonably represents the use of the passenger car by that purchaser during the 180 days referred to in that clause. 2009, c. 34, Sched. R, s. 9 (3).

#### **Time of receipt of tax credit**

(5) A purchaser who is entitled to receive a tax credit under this section is entitled to the tax credit as a deduction from tax payable by the purchaser under section 2 at the time of the sale of the passenger car. 1992, c. 13, s. 3; 2001, c. 8, s. 229 (2).

#### **Payment of balance of tax credit**

(6) If the amount of the tax payable by a purchaser described in clause (1) (a) or (b) to a vendor under section 2 at the time of the sale of a new passenger car is less than \$100, the vendor may pay the amount of the difference to the purchaser and deduct that amount from the total amount otherwise required to be remitted to the Minister by the vendor under subsection 13 (1). 2007, c. 7, Sched. 36, s. 2; 2009, c. 34, Sched. R, s. 9 (4).

#### **Section Amendments with date in force (d/m/y)**

1992, c. 13, s. 3 - 01/08/1991; 1997, c. 19, s. 22 (5) - 10/10/1997

2001, c. 8, s. 229 (1, 2) - 29/06/2001

2007, c. 7, Sched. 36, s. 2 - 17/05/2007

2009, c. 34, Sched. R, s. 9 (1-4) - 15/12/2009

#### **Tax on specified vehicles**

**4.2** (1) Subject to subsection (5), every purchaser of a specified vehicle shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use of the specified vehicle computed at the rate of 8 per cent of the fair market value of the specified vehicle if the purchaser acquires the vehicle before July 1, 2010 and shall not pay tax in respect of the consumption or use of the specified vehicle under section 2. 2009, c. 34, Sched. R, s. 10 (1).

#### **Same, purchases after June 30, 2010, etc.**

(1.1) Every purchaser of a specified vehicle shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use of the specified vehicle computed at the rate of 13 per cent of the fair market value of the specified vehicle if the purchaser,

- (a) acquires the vehicle in Ontario after June 30, 2010; or
- (b) acquires the vehicle in Canada but outside Ontario and,
  - (i) brings the vehicle into Ontario after June 30, 2010, or
  - (ii) receives delivery of the vehicle in Ontario after June 30, 2010. 2009, c. 34, Sched. R, s. 10 (1).

#### **Exception if severe damage or excessive use**

(2) Despite subsections (1) and (1.1), if both the fair value and the appraised value, as defined by the Minister, of a specified vehicle are, by reason of severe damage or excessive use, less than the average wholesale price of the specified vehicle as determined in the manner prescribed by the Minister, the tax payable under subsection (1) or (1.1) in respect of the

consumption or use of the specified vehicle is the greater of the fair value or appraised value multiplied by the tax rate set out in subsection (1) or (1.1), whichever applies. 2009, c. 34, Sched. R, s. 10 (1).

### **Definitions**

(3) In this section,

“fair market value”, in relation to a specified vehicle, means the greater of its fair value or its average wholesale price as determined in the manner prescribed by the Minister; (“juste valeur marchande”)

“gross weight”, “highway” and “motorcycle” each has the same meaning as in the *Highway Traffic Act*; (“poids brut”, “voie publique”, “motocyclette”)

“motor vehicle” means an automobile, a truck, a van, a motorcycle or a vehicle prescribed by the Minister, that has an empty vehicle weight of not more than 2,200 kilograms and for which a permit is required under the *Highway Traffic Act* to drive on a highway; (“véhicule automobile”)

“specified vehicle” means,

- (a) for the purposes of the tax imposed under subsection (1), a motor vehicle, and
- (b) for the purposes of the tax imposed under subsection (1.1),
  - (i) a motor vehicle or other vehicle for which a permit is required under the *Highway Traffic Act* to operate on a highway,
  - (ii) an off-road vehicle or motorized snow vehicle for which a permit is required under the *Off-Road Vehicles Act*, or the *Motorized Snow Vehicles Act*,
  - (iii) aircraft,
  - (iv) a vessel, or
  - (v) another type of vehicle prescribed by the Minister. (“véhicule déterminé”) 1993, c. 12, s. 5; 1996, c. 29, s. 25; 2009, c. 34, Sched. R, s. 10 (2-4).

### **Minister approved industry standard publications**

(3.1) A regulation prescribing the manner for determining the average wholesale price of a specified vehicle may require that the price be determined by reference to an industry standard publication approved by the Minister. 2016, c. 37, Sched. 22, s. 1.

### **Names of approved publications available**

(3.2) The name of any industry standard publication approved by the Minister shall be made available to the public on a government website and in any other manner that the Minister considers appropriate, and shall remain available to the public. 2016, c. 37, Sched. 22, s. 1.

### **Exemptions**

(4) Subsections (1) and (1.1) do not apply in respect of a specified vehicle that is,

- (a) a settler’s effect referred to in paragraph 58 of subsection 7 (1);
- (b) tangible personal property referred to in paragraph 59 of subsection 7 (1);
- (b.1) acquired after June 30, 2010 by a purchaser at a sale that is,
  - (i) a taxable supply by a registrant under Part IX of the *Excise Tax Act* (Canada), or
  - (ii) an exempt supply under Part I of Schedule V to the *Excise Tax Act* (Canada), other than an exempt supply prescribed by the Minister;
- (b.2) acquired after June 30, 2010 and that would have been exempt from tax under this Act if it had been acquired before July 1, 2010;
- (c) acquired by a person by bequest;
- (d) acquired by a person by gift from a member of his or her family, as defined in subsection 8 (2), from his or her brother or sister or from any other individual of a class prescribed by the Minister, if the vehicle has not been transferred on a tax-exempt basis under this clause within the 12-month period immediately preceding the acquisition;
- (d.1) acquired by a school, college or university as a gift;

- (e) acquired from the person's spouse or former spouse, if the acquisition is the result of the breakdown or dissolution of the conjugal relationship of the person and the spouse or former spouse and is in satisfaction of the person's rights under the *Family Law Act*; or
- (f) acquired through a transaction prescribed by the Minister. 1993, c. 12, s. 5; 1994, c. 13, s. 6; 1999, c. 6, s. 59 (1); 2000, c. 10, s. 27; 2005, c. 5, s. 62 (1); 2009, c. 34, Sched. R, s. 10 (5-7).

#### **Gift from brother or sister before July 1, 2010**

(4.1) Clause (4) (d) does not apply to a specified vehicle acquired by a person before July 1, 2010 by gift from his or her brother or sister. 2010, c. 1, Sched. 25, s. 6.

#### **Application of s. 2**

- (5) Despite subsection (1) and subject to subsection (5.1), section 2 applies in respect of a specified vehicle that is,
- (a) sold by a vendor who is registered under the *Motor Vehicle Dealers Act, 2002* as a motor vehicle dealer and who holds a valid permit issued under section 5;
  - (b) acquired under a lease or rental from a vendor;
  - (c) acquired by a lessee through the exercise of an option or similar right to acquire the vehicle contained in the lessee's lease or rental agreement from a vendor; or
  - (d) a vehicle whose average wholesale price as determined in the manner prescribed by the Minister is less than \$1,000. 1993, c. 12, s. 5; 2002, c. 30, Sched. E, s. 18; 2009, c. 34, Sched. R, s. 10 (8-10).

#### **When subs. (5) not applicable**

(5.1) If tax is not payable under section 2 in respect of a specified vehicle by reason of section 2.0.0.1, subsection (5) does not apply and tax is payable under this section. 2009, c. 34, Sched. R, s. 10 (11).

#### **Deemed purchaser**

- (6) A purchaser of a specified vehicle is subject to pay tax under this section if,
- (a) the vehicle is purchased before July 1, 2010 and the sale of the vehicle to the purchaser is not the first sale of the vehicle at a retail sale in Ontario;
  - (b) the vehicle is purchased at a sale in Ontario after June 30, 2010 or brought into Ontario after that day, or delivery of the vehicle is received in Ontario after that day;
  - (c) the sale of the vehicle to the purchaser occurs after the vehicle is first brought into Ontario and tax was paid or ought to have been paid by the seller of the vehicle under subsection 2 (18) or the seller was exempt from tax under this Act; or
  - (d) the purchaser is a shareholder of a corporation and acquires the specified vehicle at a sale as defined in clause (i) of the definition of "sale" in subsection 1 (1). 2009, c. 34, Sched. R, s. 10 (12).

#### **Time of payment**

- (7) A purchaser shall pay the tax imposed under this section,
- (a) at the time the purchaser applies for a permit for the vehicle under the *Highway Traffic Act*, the *Off-Road Vehicles Act* or the *Motorized Snow Vehicles Act*, as the case may be; or
  - (b) at the time of the sale or, if the purchaser purchased the vehicle in Canada but outside Ontario, at the time the purchaser brings the vehicle into Ontario or receives delivery of the vehicle in Ontario. 2009, c. 34, Sched. R, s. 10 (12).

#### **Those claiming exemption**

- (8) A person claiming an exemption from taxation under subsection (4) shall provide the documentation prescribed by the Minister to,
- (a) the person authorized by the Minister under section 11, at the time the person applies for a permit under the *Highway Traffic Act*, the *Off-Road Vehicles Act* or the *Motorized Snow Vehicles Act*, if a permit is required under any of those Acts; or
  - (b) the Minister in the manner and at the time prescribed by the Minister in any other case. 2009, c. 34, Sched. R, s. 10 (12).

## **Refund of tax**

(9) If a purchaser of a specified vehicle pays tax under subsection (1) or (1.1) but could have paid tax under subsection (2) by providing an appraisal of the specified vehicle at the time the tax was paid, the Minister may refund to the purchaser an amount equal to the difference between the tax paid and the tax payable upon such terms and conditions as the Minister may prescribe. 1993, c. 12, s. 5; 2009, c. 34, Sched. R, s. 10 (13).

## **Definition**

(10) In this section,

“spouse” has the meaning given to that expression by section 29 of the *Family Law Act*. 1999, c. 6, s. 59 (2); 2005, c. 5, s. 62 (2).

## **Section Amendments with date in force (d/m/y)**

1993, c. 12, s. 5 - 01/10/1992; 1994, c. 13, s. 6 - 01/10/1992; 1996, c. 29, s. 25 - 09/12/1996; 1999, c. 6, s. 59 (1, 2) - 01/03/2000

2000, c. 10, s. 27 - 03/05/2000

2002, c. 30, Sched. E, s. 18 - 01/01/2010

2005, c. 5, s. 62 (1, 2) - 09/03/2005

2009, c. 34, Sched. R, s. 10 (1-13) - 15/12/2009

2010, c. 1, Sched. 25, s. 6 - 15/12/2009

2016, c. 37, Sched. 22, s. 1 - 08/12/2016

## **Vendor permits**

### **Places of amusement**

**5** (1) No vendor shall sell any taxable tangible personal property or sell any taxable service or own or operate any place of amusement the price of admission to which is taxable unless the vendor has applied for, and the Minister has issued to the vendor, a permit to transact business in Ontario and the permit is in force at the time of such sale. R.S.O. 1990, c. R.31, s. 5 (1).

### **Insurance**

(1.1) No vendor shall sell any contract of insurance, receive reimbursement for premiums under a contract of group insurance or administer a benefits plan the premium in respect of which is subject to tax under this Act, unless the vendor has applied for and the Minister has issued to the vendor a permit to transact business in Ontario and the permit is in force at the time that any tax is payable on any premium. 1994, c. 13, s. 7 (1).

### **Same**

(1.2) Subsection (1.1) does not apply to Ontario employers if they are vendors only by reason of clause (h) of the definition of “vendor” in subsection 1 (1) and if the person to whom they pay the premium and the tax is a vendor to whom a permit has been issued under this Act. 1994, c. 13, s. 7 (1).

### **Beer and wine production**

(1.3) No vendor shall permit the brewing of beer or the fermentation of wine for persons liable to pay tax under section 3.1, unless the vendor has been issued a permit under subsection (1) or has applied for and the Minister has issued to the vendor a permit to transact business in Ontario and the permit is in force at the time that any tax is payable under section 3.1. 1994, c. 13, s. 7 (1).

### **Exception**

(1.4) Subsections (1) and (1.3) do not apply to a vendor after June 30, 2010 in respect of,

- (a) the sale of tangible personal property after that day;
- (b) the sale after that day of a taxable service, other than transient accommodation in respect of which a purchaser is subject to tax under section 2.1.1;
- (c) the ownership or operation of a place of amusement after that day;
- (d) the brewing of beer or the fermentation of wine for persons after that day. 2010, c. 26, Sched. 17, s. 5 (1).



### **Change in name, address or nature of business**

(2) A vendor who is required under this section to have a permit and has been issued a permit shall notify the Minister of any change in the vendor's name or address and any change in the nature of the vendor's business. 2010, c. 26, Sched. 17, s. 5 (2).

### **Cancellation or suspension of permit**

(3) The Minister may,

(a) refuse to issue a permit to any vendor; or

(b) suspend or cancel the permit of any vendor if such vendor or any of the vendor's employees contravenes this Act,

but, before a refusal, suspension or cancellation is made, the vendor shall be afforded an opportunity to appear before the Minister to show cause why the issuance of a permit should not be refused or why the permit should not be suspended or cancelled, as the case may be. R.S.O. 1990, c. R.31, s. 5 (3).

### **Information**

(4) A vendor shall apply for a permit in such form and in such manner as the Minister may provide. 1997, c. 43, Sched. D, s. 3.

### **Limitation**

(5) A permit issued under this section is valid only for the vendor in whose name it is issued, and only for so long as the vendor therein named transacts business in Ontario or until the permit is suspended or cancelled, as the case may be. R.S.O. 1990, c. R.31, s. 5 (5); 1994, c. 13, s. 7 (2).

### **Production of permit**

(6) Every vendor shall keep at each location in Ontario where he, she or it transacts business a copy of the permit issued under this section and shall, upon the request of any purchaser, produce for such purchaser's inspection a copy of such permit. R.S.O. 1990, c. R.31, s. 5 (6); 1994, c. 13, s. 7 (2).

### **Offence and penalty**

(7) Every vendor who fails to comply with this section is guilty of an offence and on conviction is liable to a fine of not less than \$100 for each day or part of a day on which the offence occurs or continues. R.S.O. 1990, c. R.31, s. 5 (7); 1994, c. 13, s. 7 (2).

### **Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 7 (1, 2) - 01/08/1993; 1997, c. 43, Sched. D, s. 3 - 18/12/1997

2010, c. 26, Sched. 17, s. 5 (1, 2) - 08/12/2010

### **Sales in bulk**

**6** (1) This section applies with respect to a sale in bulk that is not completed under section 8 of the *Bulk Sales Act* before July 1, 2011, but it does not apply with respect to a sale in bulk made pursuant to a written agreement entered into on or before March 29, 2011. 2011, c. 9, Sched. 37, s. 2.

### **Application re sellers**

(2) This section applies with respect to a person who, on or before June 30, 2010, held or was required to hold a permit under section 5 and with respect to a person who, after June 30, 2010, holds or is required to hold a permit under section 5. 2011, c. 9, Sched. 37, s. 2.

### **Seller's duty to obtain certificate**

(3) No person described in subsection (2) shall dispose of the person's stock through a sale in bulk to which the *Bulk Sales Act*, as it read immediately before it was repealed, would have applied had it not been repealed without first obtaining a certificate in duplicate from the Minister indicating that all taxes, penalties and interest collectable or payable by the person under any of the following statutes have been paid or indicating that the person has entered into an arrangement satisfactory to the Minister for the payment of such taxes, penalties and interest or for securing their payment:

1. *Liquor Tax Act*, 1996.
2. *Fuel Tax Act*.
3. *Gasoline Tax Act*.

4. *Race Tracks Tax Act*.

5. *Retail Sales Tax Act*.

6. *Tobacco Tax Act*. 2011, c. 9, Sched. 37, s. 2; 2017, c. 2, Sched. 3, s. 10 (1); 2018, c. 12, Sched. 2, s. 60; 2019, c. 15, Sched. 2, s. 31.

#### **Liability of seller**

(4) The issuance of a certificate under subsection (3) by the Minister does not affect any liability under the statutes listed in subsection (3) of the person in respect of whom the certificate is issued. 2011, c. 9, Sched. 37, s. 2.

#### **Liability of a purchaser**

(5) Every person ("purchaser") purchasing stock through a sale in bulk to which the *Bulk Sales Act*, as it read immediately before it was repealed, would have applied had it not been repealed from a person ("seller") described in subsection (2) shall obtain from the seller the duplicate copy of the certificate furnished under subsection (3) and, if the purchaser fails to do so, the purchaser is responsible to the Minister for payment to the Minister of all taxes, penalties and interest imposed under the statutes listed in subsection (3) that are collectable or payable by the seller. 2011, c. 9, Sched. 37, s. 2; 2017, c. 2, Sched. 3, s. 10 (2).

#### **Transition**

(6) This section as it reads on June 30, 2011 continues to apply with respect to a sale in bulk made pursuant to a written agreement entered into on or before March 29, 2011 or with respect to a sale in bulk completed under section 8 of the *Bulk Sales Act* before July 1, 2011. 2011, c. 9, Sched. 37, s. 2.

(7) REPEALED: 2013, c. 2, Sched. 12, s. 1 (1).

#### **Section Amendments with date in force (d/m/y)**

R.S.O.1990, c. R.31, s. 6 (7) - see 2013, c.2, Sched. 12, s. 1 (1) - 21/06/2013; 1994, c. 13, s. 8 (1) - 23/06/1994

2008, c. 7, Sched. R, s. 3 - 14/05/2008

2011, c. 9, Sched. 37, s. 2 - 01/07/2011

2013, c. 2, Sched. 12, s. 1 - 21/06/2013; 2013, c. 2, Sched. 12, s. 1 (2) - 30/06/2013

2017, c. 2, Sched. 3, s. 10 (1, 2) - 22/03/2017

2018, c. 12, Sched. 2, s. 60 - 16/11/2018

2019, c. 15, Sched. 2, s. 31 - 29/11/2021

#### **Exemption**

**7** (1) The purchaser of the following classes of tangible personal property, taxable services and admissions to a place of amusement is exempt from the tax imposed by section 2:

1. Food products for human consumption except,

- i. candies, confections, snack foods and soft drinks, other than soft drinks sold with prepared food products from an eating establishment, as defined by the Minister, at a total price for all soft drinks and prepared food products sold as part of the transaction that does not exceed four dollars, and
- ii. prepared food products purchased from an eating establishment, as defined by the Minister, the price of which exceeds four dollars. R.S.O. 1990, c. R.31, s. 7 (1), par. 1.

1.1 Packages containing food products exempt from tax under paragraph 1 and a bonus that is taxable tangible personal property, evidence of entitlement to receive a taxable service or evidence of entitlement to an admission that would otherwise be taxable under this Act if,

- i. the bonus is incidental to the food product in the package, is not ordinarily packaged with the food product and is only packaged with the food product for sale for a temporary period not exceeding six months,
- ii. the bonus is not a food product referred to in subparagraph 1 i, liquor, beer or wine,
- iii. the bonus is not an entitlement to prepared food products from an eating establishment, as defined by the Minister for the purposes of subparagraph 1 ii, the price of which would exceed \$4,
- iv. the inclusion of the bonus in the package is intended to encourage the sale of the food product, and

- v. the manufacturer of the package pays tax on the cost incurred by the manufacturer to acquire, manufacture, produce or provide the bonus. 2002, c. 8, Sched. J, s. 2.
2. Taxable services that are described in clause (c) or (d) of the definition of “taxable services” in subsection 1 (1) and that are,
- i. provided to repair, adjust, restore or maintain real property,
  - ii. provided to install tangible personal property that will become real property upon installation,
  - iii. provided to maintain, restore or repair tangible personal property where the repairs or repair parts used in the maintenance, restoration or repair may be purchased exempt from tax,
  - iv. provided to repair or recondition tangible personal property purchased for resale by a vendor,
  - v. provided by a person for the person’s own consumption or use, or
  - vi. provided to install tangible personal property that may be purchased exempt from tax under this subsection.
  - vii. REPEALED: 2000, c. 10, s. 28 (1).
  - viii. REPEALED: 2002, c. 22, s. 172 (1).
- R.S.O. 1990, c. R.31, s. 7 (1), par. 2; 1994, c. 13, s. 9 (1); 1997, c. 10, s. 32 (1); 2000, c. 10, s. 28 (1); 2002, c. 22, s. 172 (1).
- 2.0.1 Taxable services that are described in clause (c.1) or (d.1) of the definition of “taxable service” in subsection 1 (1),
- i. that are provided in respect of a computer program that may be purchased exempt from tax under paragraph 62, or
  - ii. that are provided by a person for the person’s own consumption or use. 2002, c. 22, s. 172 (2).
- 2.1 Commercial parking spaces,
- i. provided to a residential tenant by the landlord in respect of a period of at least one month,
  - ii. purchased by the buyer or owner of a condominium dwelling unit or co-operative apartment, or
  - iii. provided to the occupant or owner of a residence by a municipality under a permit issued to the occupant or owner that authorizes parking on a residential street. 1994, c. 13, s. 9 (2).
- 2.2 Toll free telephone services having an identity code that begins with 1-8 followed by two digits, except the telephone services that the Minister prescribes as ones that are excluded for the purposes of the exemption under this paragraph. 2000, c. 42, s. 93 (1).
3. Gasoline taxed under the *Gasoline Tax Act*. R.S.O. 1990, c. R.31, s. 7 (1), par. 3.
4. Gasoline used by persons engaged in the business of farming or fishing on which refunds of tax are entitled to be granted or have been granted under the *Gasoline Tax Act*. R.S.O. 1990, c. R.31, s. 7 (1), par. 4.
5. Fuel taxed under the *Fuel Tax Act*. R.S.O. 1990, c. R.31, s. 7 (1), par. 5.
6. Fuel oil that is not taxed under the *Fuel Tax Act*. R.S.O. 1990, c. R.31, s. 7 (1), par. 6.
- 6.1 Tobacco taxed under the *Tobacco Tax Act*. 2002, c. 8, Sched. J, s. 2.
7. Coal. R.S.O. 1990, c. R.31, s. 7 (1), par. 7.
8. Coke. R.S.O. 1990, c. R.31, s. 7 (1), par. 8.
9. Wood, as defined by the Minister. R.S.O. 1990, c. R.31, s. 7 (1), par. 9.
10. Natural gas and manufactured gas, as defined by the Minister. R.S.O. 1990, c. R.31, s. 7 (1), par. 10.
11. Electricity for all purposes. R.S.O. 1990, c. R.31, s. 7 (1), par. 11.
12. Ethanol or methanol that is sold and purchased as fuel to generate power by internal combustion in any engine, provided that such fuel is delivered by the vendor thereof into the engine’s fuel tank. R.S.O. 1990, c. R.31, s. 7 (1), par. 12.
13. Farm implements, farm machinery, farm equipment, farm supplies, agricultural products and repair parts, as defined by the Minister, that in his or her opinion are to be used exclusively in the business of farming by a person engaged in the business of farming. 2000, c. 10, s. 28 (2).

13.1 REPEALED: 2000, c. 10, s. 28 (3).

14. Tangible personal property incorporated into buildings or structures that are used exclusively in the business of farming by a person engaged in the business of farming. However, the exemption conferred by this paragraph does not apply to tangible personal property incorporated into residential premises, an office, a residential garage, a road, a sidewalk, a bridge or a building or structure prescribed by the Minister as not entitled to the exemption conferred by this paragraph. 2000, c. 10, s. 28 (4).
15. Fodder grain, mill and other agricultural feeds, as defined by the Minister. R.S.O. 1990, c. R.31, s. 7 (1), par. 15.
16. Paper twine, binder twine, baler twine, baler wire and barbed wire. R.S.O. 1990, c. R.31, s. 7 (1), par. 16.
17. Farm, hog and poultry fence. R.S.O. 1990, c. R.31, s. 7 (1), par. 17.
18. Equipment purchased by the governing body of a university that is designed for use, and used exclusively, in research or investigation, and repair parts therefor, but the exemption conferred by this paragraph does not apply to any equipment, or repair parts therefor, or labour to install such parts or equipment, where that equipment is used in the instruction of students, or to any type or class of equipment that is prescribed by the Minister to be excluded from this paragraph, or repair parts for such equipment, or the labour to install such equipment or repair parts. R.S.O. 1990, c. R.31, s. 7 (1), par. 18.
19. Materials and equipment required for irrigation purposes, repairs to such equipment, and drainage tiles, when such materials, equipment or tiles are purchased to be used exclusively in the business of farming by a person who, with respect to the purchase, provides a written statement to the vendor stating that the materials, equipment or tiles will be used exclusively in the business of farming. The statement must be signed by,
  - i. the person engaged in the business of farming who will use the materials, equipment or tiles, or
  - ii. a responsible official of a municipality that is carrying out a municipal drainage project for which the materials, equipment or tiles are purchased for the use of persons engaged in the business of farming. 1999, c. 9, s. 184 (2).
20. Used clothing or used footwear or a combination thereof sold by a religious, charitable, benevolent or non-profit organization in one transaction the total consideration for which does not exceed \$50. R.S.O. 1990, c. R.31, s. 7 (1), par. 20.
21. Footwear, as defined by the Minister, the price of which does not exceed an amount determined by the Minister. R.S.O. 1990, c. R.31, s. 7 (1), par. 21.
22. State and commercial aircraft, as defined by the Minister, including parts, equipment and repairs to such aircraft. 1996, c. 29, s. 26 (1).
23. Fire fighting vehicles, as defined by the Minister, when purchased at a price of more than \$1,000 per vehicle for the exclusive use of a municipality, university, public hospital, local services board or volunteer group, and repair parts for such vehicles. R.S.O. 1990, c. R.31, s. 7 (1), par. 23.
24. A mobile home within the meaning of this Act that has been occupied as a residential dwelling and that has previously been sold at a retail sale in Ontario made in good faith and for valuable consideration. R.S.O. 1990, c. R.31, s. 7 (1), par. 24.
25. Feminine hygiene products that are tampons, sanitary pads or sanitary belts. R.S.O. 1990, c. R.31, s. 7 (1), par. 25.
26. Child seating and restraint systems that meet the specifications prescribed by the regulations made under section 106 of the *Highway Traffic Act*. 2005, c. 31, Sched. 19, s. 4; 2007, c. 7, Sched. 36, s. 3.
27. Natural water, including ice and steam. R.S.O. 1990, c. R.31, s. 7 (1), par. 27.
28. Local telephone service when purchased with one or more coins at a pay telephone for a total charge not exceeding 25 cents. 1998, c. 5, s. 45 (2).
29. Boats, fishing nets and other fishing apparatus utilized in catching fish for human consumption, purchased by a person engaged in the business of fishing for use solely in his, her or its trade, and repairs to such boats, fishing nets or other fishing apparatus. R.S.O. 1990, c. R.31, s. 7 (1), par. 29.
30. Vessels of more than 1,400 cubic metres, repairs to such vessels, and machinery or equipment purchased to refit such vessels. 1992, c. 13, s. 4 (1).
31. Drugs and medicines when sold on the prescription of a physician, dentist or veterinarian. R.S.O. 1990, c. R.31, s. 7 (1), par. 31.

32. Artificial limbs and any prosthetic appliance or equipment as defined by the Minister, and repair parts for such appliances or equipment. R.S.O. 1990, c. R.31, s. 7 (1), par. 32.
33. Orthopaedic appliances, and repair parts therefor. R.S.O. 1990, c. R.31, s. 7 (1), par. 33.
34. Equipment designed solely for the use of persons who are chronic invalids or persons with a physical disability and accessories specifically designed for such equipment, and repair parts for such equipment. R.S.O. 1990, c. R.31, s. 7 (1), par. 34.
- 34.1 Animals, as defined by the Minister, specifically trained to assist and for the sole benefit of persons who are chronic invalids or who have a physical disability, and harnesses for such animals. 1996, c. 29, s. 26 (2).
35. Hearing aids and accessories specifically designed for hearing aids, and repair parts for hearing aids. R.S.O. 1990, c. R.31, s. 7 (1), par. 35.
36. Dentures and dental appliances, and repair parts therefor. R.S.O. 1990, c. R.31, s. 7 (1), par. 36.
37. Optical appliances when sold on the prescription of a physician or an optometrist, and repair parts for such appliances. R.S.O. 1990, c. R.31, s. 7 (1), par. 37.
38. Equipment, as defined by the Minister, that is purchased for use exclusively by one of the following, and repairs made to such equipment:
  - i. The Ontario Cancer Treatment and Research Foundation,
  - ii. a hospital approved as a public hospital under the *Public Hospitals Act*,
  - iii. REPEALED: 2009, c. 34, Sched. R, s. 11 (1).
  - iv. a facility approved or established as a psychiatric facility under the *Mental Health Act*. 1998, c. 5, s. 45 (3); 2009, c. 34, Sched. R, s. 11 (1).
39. Explosives and refractory materials, both as defined by the Minister, and expended or used up in the process of manufacturing tangible personal property for sale or use. R.S.O. 1990, c. R.31, s. 7 (1), par. 39.
- 39.1 Typesetting and composition, metal plates, cylinders, matrices, film, artwork, designs, photographs, rubber material, plastic material and paper material, when impressed with or displaying an image for reproduction by printing which, in the opinion of the Minister, is to be used in the manufacture or production of printed matter which may be purchased exempt from tax under this Act. 1992, c. 13, s. 4 (2).
40. Such machinery, equipment or processing materials as may be prescribed by the Minister that are purchased to be used by a manufacturer or producer,
  - i. directly in the manufacture or production of tangible personal property,
  - ii. directly in and exclusively for research into or the development of goods to be manufactured or produced by any person,
  - iii. directly in and exclusively for research into or the development of manufacturing or production processes for use by any person, or
  - iv. directly in and exclusively for more than one of the purposes described in subparagraphs i, ii and iii,but not machinery, equipment or processing materials that are used by persons prescribed by the Minister or that are used in a manner, process, industry or enterprise prescribed by the Minister. 1997, c. 10, s. 32 (2).
41. Tangible personal property purchased for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property for the purpose of sale, but this exemption does not apply with respect to,
  - i. a returnable container for use or sale in Ontario,
  - ii. a computer program used to produce another computer program that may be purchased exempt from tax under paragraph 62, or
  - iii. tangible personal property that is to be provided by way of a promotional distribution. 2008, c. 7, Sched. R, s. 4 (1).

42. Tangible personal property to be shipped by the vendor for delivery outside Ontario, including ships' stores delivered to commercial vessels of more than 1,400 cubic metres that normally operate in extra-territorial waters. R.S.O. 1990, c. R.31, s. 7 (1), par. 42.
43. Children's clothing as the Lieutenant Governor in Council may determine by regulation. R.S.O. 1990, c. R.31, s. 7 (1), par. 43.
44. Publications, as defined by the Minister, purchased by a school, school board, community college or university or by a public library established under the *Public Libraries Act*. R.S.O. 1990, c. R.31, s. 7 (1), par. 44; 2000, c. 42, s. 93 (2).
45. Books, as defined by the Minister, and repairs thereto. R.S.O. 1990, c. R.31, s. 7 (1), par. 45.
46. Newspapers, however purchased, but not advertising inserts or supplements to be included in newspapers. R.S.O. 1990, c. R.31, s. 7 (1), par. 46.
47. Magazines, as defined by the Minister, but only where purchased by subscription or acquired under such circumstances as may be prescribed by the Minister. 2006, c. 33, Sched. Z.4, s. 4.
- 47.1 Newsletters and bulletins, as defined by the Minister. 1994, c. 13, s. 9 (2).
48. Liquor, beer or wine sold under the authority of a special occasion permit issued under the *Liquor Licence Act* and regulations made thereunder. R.S.O. 1990, c. R.31, s. 7 (1), par. 48.
49. Returnable containers to be used to hold milk that is sold at a retail sale in Ontario. R.S.O. 1990, c. R.31, s. 7 (1), par. 49.
50. Works of art purchased by a museum or art gallery more than 50 per cent of the revenue of which is provided by public donations and grants by public bodies. R.S.O. 1990, c. R.31, s. 7 (1), par. 50.
51. Uncancelled postage stamps and uncancelled revenue stamps valid for the transportation of mail or for revenue purposes in the jurisdiction issuing such stamps, if the consideration for the sale thereof does not exceed the equivalent face value thereof in Canadian funds. R.S.O. 1990, c. R.31, s. 7 (1), par. 51.
52. Coin, paper money or bank notes unless purchased at a price greater than the equivalent face value thereof in Canadian funds. R.S.O. 1990, c. R.31, s. 7 (1), par. 52.
53. Equipment, as defined by the Minister, that is to be used by a religious institution exclusively in that part of its premises where religious worship or sabbath school is regularly conducted, and repairs to such equipment, but not including any equipment acquired for resale by a religious institution. R.S.O. 1990, c. R.31, s. 7 (1), par. 53.
54. Equipment, as defined by the Minister and that is purchased by a person licensed by the Minister of Natural Resources to trap furbearing mammals, and repairs to such equipment. R.S.O. 1990, c. R.31, s. 7 (1), par. 54; 1997, c. 41, s. 125.
55. Publications, as defined by the Minister, purchased or produced by a religious, charitable or benevolent organization. 2005, c. 28, Sched. M, s. 2 (2).
56. Tangible personal property purchased at a price of less than 21 cents, except draft beer. R.S.O. 1990, c. R.31, s. 7 (1), par. 56.
57. REPEALED: 2001, c. 8, s. 230.
58. Settler's effects, as defined by the Minister. R.S.O. 1990, c. R.31, s. 7 (1), par. 58.
59. Tangible personal property situated on a reserve when purchased by an Indian, a band or the council of the band, and tangible personal property purchased by an Indian, a band or the council of the band off the reserve when delivered to the reserve for consumption or use by an Indian, a band or the council of the band. 1992, c. 13, s. 4 (3); 2010, c. 26, Sched. 17, s. 6 (1).
60. Taxable services used on a reserve when purchased by an Indian, a band or the council of the band. 1992, c. 13, s. 4 (3); 2010, c. 26, Sched. 17, s. 6 (2).
61. Vessels that do not exceed 1,400 cubic metres and that are operated for commercial purposes prescribed by the Minister, repairs to such vessels, and machinery or equipment purchased to refit such vessels. 1992, c. 13, s. 4 (4).
62. Computer programs designed and developed to meet the specific requirements of the initial purchaser, but only in such circumstances as the Minister may prescribe. 1997, c. 10, s. 32 (4).
63. Equipment (and repair parts for the equipment) to be used exclusively for research or investigation, if the equipment is purchased by a non-profit institution that conducts medical research, as prescribed by the Minister, as its only function. 1997, c. 10, s. 32 (4).

64. A gift to a school, college or university. 2000, c. 10, s. 28 (5).
  65. Cones, cuttings, seeds, seedlings and similar planting stock when purchased for planting in a Crown forest, as defined in the *Crown Forest Sustainability Act, 1994*, by a person holding a subsisting forest resource licence issued by the Ministry of Natural Resources, and such other silvicultural material as the Minister prescribes. 2000, c. 10, s. 28 (5).
  66. Audio books, as defined by the Minister. However, the exemption applies only in the circumstances prescribed by the Minister. 2001, c. 23, s. 192 (3).
  67. Admissions to a place of amusement that are donated to any of the following by an owner or operator of the place of amusement:
    - i. A registered charity, as defined in subsection 248 (1) of the *Income Tax Act* (Canada).
    - ii. An educational institution, on such terms and conditions as the Minister may prescribe.
    - iii. A qualifying non-profit organization, as defined by the Minister, on such terms and conditions as the Minister may prescribe. 2006, c. 9, Sched. M, s. 2 (2).
  68. Reinforced concrete, as defined by the Minister, used in the construction of a structure to be used by a manufacturer directly in the manufacture or production of tangible personal property, but only on such terms and conditions as the Minister may prescribe. 2002, c. 22, s. 172 (3).
  69. Bicycles, as defined in the *Highway Traffic Act*, purchased after November 30, 2007 and before January 1, 2011 at a price of \$1,000 or less, and bicycle safety equipment, including bicycle helmets, purchased after November 30, 2007 and before January 1, 2011. 2008, c. 7, Sched. R, s. 4 (2).
  - 70., 71. REPEALED: 2009, c. 34, Sched. R, s. 11 (2).
  72. Nicotine replacement therapies designed solely to assist persons to stop smoking that,
    - i. if purchased after August 12, 2007 and before March 26, 2008, have been assigned a drug identification number by Health Canada, or
    - ii. if purchased after March 25, 2008, have been assigned by Health Canada either a drug identification number or a natural product number. 2008, c. 7, Sched. R, s. 4 (2).
- R.S.O. 1990, c. R.31, s. 7 (1); 1992, c. 13 s. 4; 1994, c. 13, s. 9 (1, 2); 1996, c. 18, s. 17 (1); 1996, c. 29, s. 26 (1, 2); 1997, c. 10, s. 32; 1997, c. 41, s. 125; 1998, c. 5, s. 45 (1-3); 1999, c. 9, s. 184; 2000, c. 10, s. 28; 2000, c. 42, s. 93 (1, 2); 2001, c. 8, s. 230; 2001, c. 23, s. 192; 2002, c. 8, Sched. J, s. 2; 2002, c. 22, s. 172; 2005, c. 28, Sched. M, s. 2; 2005, c. 31, Sched. 19, s. 4; 2006, c. 9, Sched. M, s. 2; 2006, c. 33, Sched. Z.4, s. 4; 2007, c. 7, Sched. 36, s. 3; 2008, c. 7, Sched. R, s. 4; 2009, c. 34, Sched. R, s. 11; 2010, c. 26, Sched. 17, s. 6.

### **Exceptions**

(2) The purchaser of tangible personal property purchased to provide a taxable service is not exempt from the tax imposed by this Act. R.S.O. 1990, c. R.31, s. 7 (2).

### **Exemption, parts for warranty repairs, etc.**

(3) A person who purchases parts to repair, replace, service or maintain tangible personal property is exempt from the tax imposed by this Act if,

- (a) the purchase is made to fulfil obligations under a warranty or guarantee or under a contract for the service, maintenance or warranty of tangible personal property; and
- (b) the purchaser of the tangible personal property repaired, replaced, serviced or maintained would be exempt from the payment of the tax imposed by this Act on the purchase of the parts. 1994, c. 13, s. 9 (3).

### **Exceptions**

(4) No taxable service is exempt from the tax imposed by this Act by reason of the fact that the tangible personal property used in providing the taxable service is tangible personal property in respect of which tax imposed by this Act has been paid. R.S.O. 1990, c. R.31, s. 7 (4).

### **Exemptions, foreign states and diplomatic personnel**

(5) The following persons and entities are exempt from tax under this Act:

1. A foreign state.
2. An international organization.

3. An individual who,
  - i. is not a Canadian citizen or permanent resident of Canada, as defined in the *Immigration Act* (Canada),
  - ii. is assigned to duty in Canada by the foreign state or international organization that the individual represents,
  - iii. is authorized by the Department of Foreign Affairs and International Trade of Canada,
  - iv. is not engaged locally, and
  - v. serves in, or is employed by, an international organization or the diplomatic mission or consular post of a foreign state.
4. A spouse or family member of an individual described in paragraph 3, but only if the spouse or family member is not a Canadian citizen or permanent resident of Canada, as defined in the *Immigration Act* (Canada), and is authorized by the Department of Foreign Affairs and International Trade of Canada.
5. A political subdivision of a foreign state, as prescribed by the Minister, and individuals, as prescribed by the Minister, employed by the government of such a political subdivision, but only on such conditions as the Minister prescribes for any of them.
6. A spouse or family member of an individual described in paragraph 5, but only on such conditions as the Minister prescribes. 2000, c. 42, s. 93 (3); 2005, c. 5, s. 62 (3, 4).

#### **Exception, non-official duties**

(5.1) Subsection (5) does not apply to exempt from tax an individual who, not being in the performance of his or her duties for the foreign state or international organization that he or she represents, purchases tangible personal property or a taxable service for the consumption or use of a person who is not entitled to an exemption under that subsection. 2000, c. 42, s. 93 (3).

#### **Definitions, subss. (5) and (5.1)**

(5.2) For the purposes of subsections (5) and (5.1),

“foreign state” means a foreign state that is officially recognized by Canada; (“État étranger”)

“international organization” means an international organization as defined in the *Foreign Missions and International Organizations Act* (Canada) but only to the extent specified in an order made under section 5 of that Act; (“organisation internationale”)

“spouse” means a spouse as defined in section 29 of the *Family Law Act*. (“conjoint”) 2000, c. 42, s. 93 (3); 2005, c. 5, s. 62 (5).

#### **Application, toll-free telephone services**

(6) Paragraph 2.2 of subsection (1) applies to services rendered and charges incurred on or after July 1, 1996. 1996, c. 18, s. 17 (2).

#### **Section Amendments with date in force (d/m/y)**

1992, c. 13, s. 4 (1, 3, 4) - 25/06/1992; 1992, c. 13, s. 4 (2) - 01/01/1991; 1994, c. 13, s. 9 (1, 3) - 20/05/1993; 1994, c. 13, s. 9 (2) - 01/07/1993; 1996, c. 18, s. 17 (2) - 01/07/1996; 1996, c. 29, s. 26 (1, 2) - 09/12/1996; 1997, c. 10, s. 32 (2, 4) - 07/05/1997; 1997, c. 41, s. 125 - 01/01/1999; 1998, c. 5, s. 45 (2) - 06/05/1998; 1998, c. 5, s. 45 (3) - 26/06/1998; 1999, c. 9, s. 184 (2) - 14/12/1999

2000, c. 10, s. 28 (1, 5) - 03/05/2000; 2000, c. 10, s. 28 (2, 3) - 23/06/2000; 2000, c. 10, s. 28 (4) - 01/10/2000; 2000, c. 42, s. 93 (1) - 01/07/2000; 2000, c. 42, s. 93 (2) - 21/12/2000; 2000, c. 42, s. 93 (3) - 01/03/2000

2001, c. 8, s. 230 - 29/06/2001; 2001, c. 23, s. 192 (2) - 07/05/1997; 2001, c. 23, s. 192 (3) - 01/09/2002

2002, c. 8, Sched. J, s. 2 - 18/06/2002; 2002, c. 22, s. 172 (1, 2) - 19/07/2002; 2002, c. 22, s. 172 (3) - 18/06/2002

2005, c. 5, s. 62 (3, 4, 5) - 09/03/2005; 2005, c. 28, Sched. M, s. 2 (1) - no effect - see 2005, c. 31, Sched. 19, s. 5 (3) - 15/12/2005; 2005, c. 28, Sched. M, s. 2 (2) - 12/05/2005; 2005, c. 31, Sched. 19, s. 4 - 01/09/2005

2006, c. 9, Sched. M, s. 2 (1) - 18/05/2006; 2006, c. 9, Sched. M, s. 2 (2) - 24/03/2006; 2006, c. 33, Sched. Z.4, s. 4 - 20/12/2006

2007, c. 7, Sched. 36, s. 3 - 01/12/2006

2008, c. 7, Sched. R, s. 4 (1) - 01/05/1997; 2008, c. 7, Sched. R, s. 4 (2) - 26/03/2008

2009, c. 34, Sched. R, s. 11 (1, 2) - 15/12/2009



2010, c. 26, Sched. 17, s. 6 (1, 2) - 08/12/2010

### **Conditional exemptions**

#### **Family, etc., bequests**

**8** (1) Where a person acquires title to tangible personal property by bequest from a member of his or her family and no consideration is payable by the purchaser in respect of the acquisition, the tax imposed by subsection 2 (1) does not apply. R.S.O. 1990, c. R.31, s. 8 (1); 1999, c. 6, s. 59 (3); 2005, c. 5, s. 62 (6).

#### **Definition, subs. (1)**

(2) In subsection (1),

“member of his or her family” means the father, mother, spouse, grandfather, grandmother, son, daughter, grandson, granddaughter, son-in-law, daughter-in-law, father-in-law or mother-in-law of the purchaser. R.S.O. 1990, c. R.31, s. 8 (2).

#### **Marriage breakdown**

(3) Subsection 2 (1) does not apply to the consumption or use by a person of tangible personal property acquired from the person’s spouse or former spouse where the acquisition is the result of the breakdown or dissolution of the conjugal relationship of the person and the spouse or former spouse and is in satisfaction of the person’s rights under the *Family Law Act*. R.S.O. 1990, c. R.31, s. 8 (3); 1999, c. 6, s. 59 (4); 2005, c. 5, s. 62 (7).

#### **Definition, this section**

(4) In this section,

“spouse” has the meaning given to that expression by section 29 of the *Family Law Act*. R.S.O. 1990, c. R.31, s. 8 (4); 1999, c. 6, s. 59 (5); 2005, c. 5, s. 62 (8).

#### **Section Amendments with date in force (d/m/y)**

1999, c. 6, s. 59 (3-5) - 01/03/2000

2005, c. 5, s. 62 (6-8) - 09/03/2005

### **Other exemptions**

#### **Special circumstances**

**9** (1) If, owing to special circumstances, it is deemed inequitable that the whole amount of tax imposed by this Act be paid, the Minister may, with the approval of the Lieutenant Governor in Council, exempt a purchaser from payment of the whole or any part of such tax. R.S.O. 1990, c. R.31, s. 9 (1).

#### **Exemption from tax on entertainment, etc.**

(2) The tax imposed by subsection 2 (5) is not payable in respect of the price of admission to any entertainment, event, dance, performance or exhibition staged or held where no performer taking part in that entertainment, event, dance, performance or exhibition receives, or will receive, either directly or indirectly, any remuneration or any other consideration for the performance or where 90 per cent of the performers who regularly participate in the cast of a theatrical or musical performance staged or held in a place of amusement are persons who are Canadian citizens resident in Canada or who are permanent residents in Canada as defined in the *Immigration Act* (Canada) or to any entertainment, event, dance, performance or exhibition that is staged or held in a place of amusement by, or under the auspices or sponsorship of,

- (a) a registered Canadian amateur athletic association, as defined by subsection 248 (1) of the *Income Tax Act* (Canada), including a branch or affiliate association to which the registration under that Act of the Canadian amateur association of which it is a branch or affiliate has been extended;
- (b) a registered charity, as defined by subsection 248 (1) of the *Income Tax Act* (Canada);
- (c) a labour organization or society, or a benevolent or fraternal benefit society or order;
- (d) an agricultural society constituted under the *Agricultural and Horticultural Organizations Act*, during any agricultural fair held by the agricultural society except where the entertainment, event, performance or exhibition is a sporting event;
- (e) an educational institution; or

- (f) an organization that is substantially assisted or supported financially from public funds of the Province of Ontario and that is prescribed by the Minister for the purpose of this subsection. R.S.O. 1990, c. R.31, s. 9 (2); 1992, c. 13, s. 5; 1996, c. 29, s. 27; 2004, c. 16, Sched. D, Table; 2009, c. 34, Sched. R, s. 12 (1).

#### **Exemption from tax on admissions to live theatres**

(2.1) The tax imposed by subsection 2 (5) is not payable in respect of the price of admission to a theatre, including a dinner theatre, if,

- (a) the theatre has not more than 3,200 seats; and
- (b) the price of admission is for a live dramatic, comedic, choreographic or musical performance, including a live theatrical play and a live ballet, orchestral or operatic performance. 2008, c. 7, Sched. R, s. 5.

#### **Exception**

(2.2) Subsection (2.1) does not apply in respect of the price of admission to a nightclub, tavern, cocktail lounge, bar, striptease club or similar establishment, or in respect of any amount paid by a purchaser that is reasonably attributable to the sale of tangible personal property or a taxable service. 2008, c. 7, Sched. R, s. 5.

#### **Exemption from tax, hospital restructuring**

(3) The tax imposed by subsection 2 (1) or section 4.2 is not payable by any of the following hospitals or facilities on its acquisition of tangible personal property from another such hospital or facility as a result of an amalgamation or closure of the hospital or facility or on the transfer of a program from another such hospital or facility:

1. A hospital approved as a public hospital under the *Public Hospitals Act*.
2. REPEALED: 2009, c. 34, Sched. R, s. 12 (2).
3. A facility approved or established as a psychiatric facility under the *Mental Health Act*. 1998, c. 5, s. 46 (1); 2009, c. 34, Sched. R, s. 12 (2).

#### **Exemption from tax for municipal restructuring, etc.**

(4) The tax imposed by subsection 2 (1) or section 4.2 is not payable by a municipality, a public commission or a local board as defined in the *Municipal Affairs Act* on the acquisition of tangible personal property from another municipality, public commission or local board or from the Crown or an agency thereof as a result of,

- (a) a statutory or legally required amalgamation of two or more of them; or
- (b) a restructuring or realignment of responsibilities ordered pursuant to section 173 or 175 of the *Municipal Act, 2001* or section 149 of the *City of Toronto Act, 2006*. 1997, c. 43, Sched. D, s. 5 (2); 1998, c. 5, s. 46 (2); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 57.

(5) REPEALED: 2002, c. 17, Sched. F, Table.

#### **Exemption from tax re water and sewage works**

(6) The tax imposed by subsection 2 (1) or section 4.2 is not payable by a municipality (within the meaning of the *Municipal Water and Sewage Transfer Act, 1997*) on the acquisition of tangible personal property as a result of the transfer of a water or sewage works or related assets pursuant to the *Municipal Water and Sewage Transfer Act, 1997*. 2002, c. 22, s. 173.

#### **Section Amendments with date in force (d/m/y)**

1992, c. 13, s. 5 (1, 2) - 25/06/1992; 1996, c. 29, s. 27 - 09/12/1996; 1997, c. 43, Sched. D, s. 5 (2) - 01/01/1998; 1998, c. 5, s. 46 (1) - 26/06/1998; 1998, c. 5, s. 46 (2) - 06/05/1998

2002, c. 17, Sched. F, Table - 01/01/2003; 2002, c. 22, s. 173 - 27/05/1997

2004, c. 16, Sched. D, Table - 01/01/2004

2006, c. 32, Sched. C, s. 57 - 01/01/2007

2008, c. 7, Sched. R, s. 5 - 26/03/2008

2009, c. 34, Sched. R, s. 12 (1, 2) - 15/12/2009

#### **Rebate, energy-efficient appliance**

#### **Definitions**

**9.1** (1) In this section,

“appliance” means a refrigerator, dishwasher, clothes washer or another household appliance prescribed by the Minister; (“appareil ménager”)

“energy-efficient appliance” means an appliance that is listed as “Energy Star Qualified” in the *EnerGuide Appliance Directory* published by Natural Resources Canada for 2002, 2003 or 2004. (“appareil ménager éconergétique”) 2002, c. 23, s. 5 (1); 2003, c. 7, s. 17 (1).

#### **Rebate**

(2) The Minister may rebate to the purchaser of an energy-efficient appliance the amount of tax paid by the purchaser under section 2 on the sale of the appliance to the purchaser if,

- (a) the contract for the sale is entered into after November 25, 2002 and on or before July 31, 2004;
- (b) the sale is the first sale of the appliance to any purchaser and, if the sale is a rental or lease, the term of the rental or lease is at least 365 days;
- (c) delivery of the appliance occurs on or before September 15, 2004;
- (d) the purchaser makes an application for the rebate on or before the fourth anniversary of the sale of the appliance to the purchaser or, if the sale is a rental or lease, on or before the fourth anniversary of the day the last rental or lease payment is required to be made; and
- (e) the application for the rebate referred to in clause (d) is in writing and contains the information required by the Minister. 2002, c. 23, s. 5 (1); 2003, c. 7, s. 17 (2, 3); 2004, c. 7, s. 16.

#### **Section Amendments with date in force (d/m/y)**

2002, c. 23, s. 5 (1) - 09/12/2002

2003, c. 7, s. 17 (1-3) - 18/12/2003

2004, c. 7, s. 16 (1, 2) - 17/06/2004

#### **Vendor to be collector**

**10** Every vendor is an agent of the Minister and as such shall levy and collect the taxes imposed by this Act upon the purchaser or consumer. R.S.O. 1990, c. R.31, s. 10.

#### **Other authorized collectors**

**11** (1) The Minister may in writing authorize any person who is not a vendor or any class of persons who are not vendors to collect from purchasers or consumers the tax imposed by this Act or to collect from vendors the tax collectible under this Act. 2002, c. 22, s. 174.

#### **Scope of authorization**

(1.1) An authorization under subsection (1) may limit the time during which the authority conferred is exercisable and may limit the class or type of purchaser, consumer or vendor from whom the tax may be collected. 2002, c. 22, s. 174.

#### **Status of authorized person**

(1.2) A person authorized under subsection (1) to collect tax acts as agent of the Minister when collecting the tax. 2002, c. 22, s. 174.

#### **Collector to be trustee**

(2) Every person who collects tax by virtue of an authorization made under subsection (1) shall be deemed to hold such tax in trust for Her Majesty in right of Ontario, and is responsible for the payment over of such tax in the manner and time provided under this Act and the regulations for the payment over of tax collected by a vendor. R.S.O. 1990, c. R.31, s. 11 (2).

#### **Collectors, tax on used motor vehicles**

(2.1) Despite section 10, no purchaser shall pay the tax levied under section 4.2 to any person other than a person authorized by the Minister under this section and no vendor shall collect the tax. 1993, c. 12, s. 6.

#### **Authorization may be revoked**

(3) An authorization made under subsection (1) may be revoked with respect to any person to whom the authorization extends, but before any such revocation is made, the person affected shall be afforded an opportunity to appear before the Minister to show cause why the authorization should not be revoked. R.S.O. 1990, c. R.31, s. 11 (3).

## **Member of Assembly**

(4) No person acting under subsection (1) or under section 10 shall thus be made ineligible as a member of the Assembly. R.S.O. 1990, c. R.31, s. 11 (4).

## **Section Amendments with date in force (d/m/y)**

1993, c. 12, s. 6 - 01/10/1992

2002, c. 22, s. 174 - 01/01/2003

## **Taxes collected at the time of sale**

**12** The taxes imposed by this Act, whether the purchase price be stipulated to be payable in cash or on terms or by instalments or otherwise, shall be collected at the time of the sale, or at the time of the promotional distribution of an admission, on the whole amount of the purchase price and be remitted to the Minister at the times and in the manner prescribed by the regulations. R.S.O. 1990, c. R.31, s. 12; 1994, c. 13, s. 8 (1); 1996, c. 29, s. 28.

## **Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 8 (1) - 23/06/1994; 1996, c. 29, s. 28 - 09/12/1996

## **Accounting by vendors**

**13** (1) All taxes and all amounts collected as or on account of tax by a vendor under this Act shall, subject to subsections 2 (16) and (16.3), be remitted to the Minister at the time or times and in the manner prescribed by the regulations. 1994, c. 13, s. 10.

## **Offence**

(2) Every person who contravenes subsection (1) is guilty of an offence and is liable on conviction to one or both of the following penalties in addition to any penalty otherwise provided by this Act:

1. A fine that is,
  - i. a minimum of \$100 or 25 per cent of the amount of tax and amounts collected as, or on account of, tax under this Act that were not remitted, whichever is greater, and
  - ii. a maximum of double the amount of tax and amounts collected as, or on account of, tax under this Act that were not remitted, if the maximum so calculated is greater than \$100.
2. Imprisonment for a term of not more than two years. 1998, c. 34, s. 94.

## **Collector deemed vendor**

(3) Any person who collects any amount as or on account of tax shall be deemed to be a vendor for the purposes of subsection (1) and for the purposes of assessment, collection and enforcement of this Act. 1996, c. 29, s. 29.

## **Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 10 - 23/06/1994; 1996, c. 29, s. 29 - 09/12/1996; 1998, c. 34, s. 94 - 18/12/1998

## **Compensation**

### **Compensation to prescribed vendors**

**14** (1) For each 12-month period commencing on April 1 during which tax is collected, there may be paid to each vendor that collects tax on premiums under section 2.1 and that holds a valid and subsisting permit issued under section 5, the lesser of,

- (a) \$1,500; or
- (b) the aggregate of,
  - (i) 5 per cent of the tax collected under section 2.1 by the vendor in the period and shown in a return to be \$400 or more,
  - (ii) \$20 for each return with respect to the tax collected under section 2.1 by the vendor in the period and shown to have been more than \$20 and less than \$400, and
  - (iii) the tax collected under section 2.1 by the vendor in the period and shown in a return to be not more than \$20,

as compensation for the vendor's services in collecting and remitting the tax imposed under section 2.1 and the vendor may deduct the compensation from the amount otherwise to be remitted to the Minister in accordance with section 13. 2010, c. 1, Sched. 25, s. 7 (1).

(1.1) REPEALED: 2010, c. 1, Sched. 25, s. 7 (2).

#### **Compensation for April 1, 2010 to June 30, 2010**

(1.2) For the period during which tax is collected commencing on April 1, 2010 and ending June 30, 2010, there may be paid to each vendor holding a valid and subsisting permit issued under section 5, the lesser of,

- (a) \$375; or
- (b) the aggregate of,
  - (i) 5 per cent of the tax collected by the vendor in the period and shown in a return to be \$400 or more,
  - (ii) \$20 for each return with respect to the tax collected by the vendor in the period and shown to have been more than \$20 and less than \$400, and
  - (iii) the tax collected by the vendor in the period and shown in a return to be not more than \$20,

as compensation for the vendor's services in collecting and remitting the tax imposed by this Act and the vendor may deduct the compensation from the amount otherwise to be remitted to the Minister in accordance with section 13. 2010, c. 1, Sched. 25, s. 7 (3).

#### **Compensation for July 1, 2010 to March 31, 2011**

(1.3) For the period commencing on July 1, 2010 and ending March 31, 2011 during which tax is collected, there may be paid to each vendor that collects tax on premiums under section 2.1 and that holds a valid and subsisting permit issued under section 5, the lesser of,

- (a) \$1,125; or
- (b) the aggregate of,
  - (i) 5 per cent of the tax collected under section 2.1 by the vendor in the period and shown in a return to be \$400 or more,
  - (ii) \$20 for each return with respect to the tax collected under section 2.1 by the vendor in the period and shown to have been more than \$20 and less than \$400, and
  - (iii) the tax collected under section 2.1 by the vendor in the period and shown in a return to be not more than \$20,

as compensation for the vendor's services in collecting and remitting the tax imposed under section 2.1 and the vendor may deduct the compensation from the amount otherwise to be remitted to the Minister in accordance with section 13. 2010, c. 1, Sched. 25, s. 7 (3).

#### **Exception re deduction from amount remitted**

(2) Despite subsection (1), a vendor may not deduct the compensation referred to in subsection (1) from the amount remitted to a person authorized under subsection 11 (1) to collect taxes from the vendor. 2002, c. 22, s. 175.

#### **Same**

(2.1) If subsection (2) applies with respect to a vendor, the Minister may pay to the vendor the compensation referred to in subsection (1). 2002, c. 22, s. 175.

#### **Compensation to other agents**

(3) The Minister may enter into such arrangements as he or she considers expedient and proper with any person who collects tax by virtue of an authorization made under subsection 11 (1) for the payment of compensation to such person for the person's services in collecting and remitting the tax imposed by this Act, and such person may deduct the compensation payable from the amount otherwise to be remitted to the Minister in accordance with this Act and the regulations. R.S.O. 1990, c. R.31, s. 14 (3); 1994, c. 13, s. 8 (1).

#### **Compensation to financial institutions**

(3.1) The Minister or the Minister of Transportation may enter into such arrangement as either of them considers expedient and proper with any financial institution for the payment of compensation for the use of the credit card of the financial institution by purchasers paying the tax imposed by section 4.2 to persons authorized by the Minister under section 11, and

the financial institution may deduct the compensation payable from the amount otherwise to be remitted to the Minister. 1993, c. 12, s. 7; 1994, c. 13, s. 8 (1).

#### **Idem**

(4) No person accepting compensation under subsection (1) or (3) shall thus be made ineligible as a member of the Assembly. R.S.O. 1990, c. R.31, s. 14 (4).

#### **Section Amendments with date in force (d/m/y)**

1993, c. 12, s. 7 - 01/10/1992; 1994, c. 13, s. 8 (1) - 23/06/1994

2000, c. 42, s. 94 - 01/07/2000

2002, c. 22, s. 175 - 01/01/2003

2009, c. 34, Sched. R, s. 13 - 15/12/2009

2010, c. 1, Sched. 25, s. 7 (1, 2) - 01/04/2011; 2010, c. 1, Sched. 25, s. 7 (3) - 01/04/2010

**14.1** REPEALED: 2018, c. 17, Sched. 37, s. 1.

#### **Section Amendments with date in force (d/m/y)**

2009, c. 34, Sched. R, s. 14 - 15/12/2009

2010, c. 1, Sched. 25, s. 8 - 18/05/2010

2018, c. 17, Sched. 37, s. 1 - 06/12/2018

#### **Returns**

**15** (1) Every vendor shall make returns to the Minister and shall keep such records in the form and substance as are prescribed by the regulations, and any failure so to do constitutes an offence against this Act. R.S.O. 1990, c. R.31, s. 15.

#### **Exception**

(2) A vendor is not required to file a return under subsection (1) in respect of a period commencing on or after July 1, 2010 unless the vendor,

(a) collected an amount as or on account of tax under this Act during the period; or

(b) was required under section 5 to have a permit during the period. 2010, c. 26, Sched. 17, s. 7.

#### **Section Amendments with date in force (d/m/y)**

2010, c. 26, Sched. 17, s. 7 - 08/12/2010

#### **Remittances by manufacturers**

**15.1** (1) Every person who manufactures or produces for their own consumption or use tangible personal property whose fair value exceeds \$50,000 in a fiscal year shall make a return to the Minister and remit the tax payable in respect of the tangible personal property manufactured during the period covered by the return. 1994, c. 13, s. 11.

#### **Exception**

(1.1) Despite subsection (1), no return is required in respect of tangible personal property manufactured after June 30, 2010. 2010, c. 26, Sched. 17, s. 8.

#### **When tax remittable**

(2) The tax required to be remitted under subsection (1) shall be remitted at the time or times and in the manner prescribed by the regulations. 1994, c. 13, s. 11.

#### **Penalty, not delivering return**

(3) Every person to whom this section applies who fails to deliver a return as required by this Act and the regulations shall pay a penalty of an amount equal to 5 per cent of the tax payable by the person for the period in respect of which the return should have been delivered. 1999, c. 9, s. 185.

#### **Penalty, not remitting tax**

(4) Every person to whom this section applies who delivers the return as required by this Act and the regulations but who fails to remit with that return the full amount of tax payable by the person as shown on the return shall pay a penalty of an amount equal to 5 per cent of the tax payable by the person and not remitted. 1999, c. 9, s. 185.

### **One penalty**

(5) Where a penalty under subsection (3) has been assessed, no penalty for failing to deliver a return shall be assessed under subsection 32 (1) for that failure. 1999, c. 9, s. 185.

### **Same**

(6) Where a penalty under subsection (4) has been assessed, no penalty for failing to remit tax payable by the person shall be assessed under subsection 32 (2) for that failure. 1999, c. 9, s. 185.

### **Section Amendments with date in force (d/m/y)**

R.S.O. 1990, c. R.31, s. 15.1 (4) - no effect - see 1999, c. 9, s. 185 - 01/07/2000

1994, c. 13, s. 11 - 23/06/1994; 1999, c. 9, s. 185 - 01/07/2000

2010, c. 26, Sched. 17, s. 8 - 08/12/2010

### **Records**

#### **Records of manufacturers, etc.**

**16** (1) Every manufacturer, wholesaler, importer, jobber, agent and vendor shall keep records of all their purchases and sales of tangible personal property whether for consumption or use or for resale which records clearly identify the persons to whom sales for resale are made, and any failure so to do constitutes an offence against this Act. R.S.O. 1990, c. R.31, s. 16 (1).

#### **Records of vendors of taxable services**

(2) Every vendor of taxable services shall keep records of all purchases and sales made by the vendor of tangible personal property, and records of all purchases and sales made by the vendor of taxable services, whether for consumption, use or resale, and any failure to do so constitutes an offence under this Act. R.S.O. 1990, c. R.31, s. 16 (2).

#### **Records of vendors who own or operate places of amusement**

(3) Every vendor who owns or operates a place of amusement in Ontario shall keep records of the charges made by that vendor for entry to the place of amusement and for every entry that is provided to that place as a promotional distribution, and any failure to do so constitutes an offence under this Act. R.S.O. 1990, c. R.31, s. 16 (3).

#### **Records of vendors of insurance**

(3.1) Every vendor who sells a contract of insurance, receives reimbursement for premiums under a contract of group insurance or administers a benefits plan shall keep records containing such information as will enable the determination of the vendor's liabilities and obligations under this Act, and any failure to do so constitutes an offence under this Act. 2010, c. 26, Sched. 17, s. 9.

#### **Deemed retail sales**

(4) Where any person whose records fail to clearly identify the persons to whom sales for resale are made, the sales of tangible personal property disclosed in the records shall be deemed to have been retail sales. R.S.O. 1990, c. R.31, s. 16 (4).

#### **Same, sale of tobacco**

(5) If a wholesaler who does not hold a wholesaler permit under the *Tobacco Tax Act* sells tobacco (within the meaning of that Act) to persons for resale and,

(a) does not keep records that clearly identify the persons to whom the tobacco is sold for resale; or

(b) does not issue sales invoices to the persons to whom the tobacco is sold for resale,

the sales of tobacco shall be deemed to have been retail sales. 1998, c. 34, s. 95.

### **Section Amendments with date in force (d/m/y)**

1998, c. 34, s. 95 - 18/12/1998

2010, c. 26, Sched. 17, s. 9 - 08/12/2010

### **Confidentiality**

**17** (1) Except as authorized by this section, no person employed by the Government of Ontario shall,

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or

- (b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act. R.S.O. 1990, c. R.31, s. 17 (1).

#### **Testimony**

- (2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,
  - (a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or
  - (b) to produce any record or thing obtained by or on behalf of the Minister for the purposes of this Act. R.S.O. 1990, c. R.31, s. 17 (2).

#### **Exception**

- (3) Subsections (1) and (2) do not apply in respect of,
  - (a) criminal proceedings under any Act of the Parliament of Canada;
  - (b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or
  - (c) proceedings relating to the administration or enforcement of this Act or the collection or assessment of tax under this Act. R.S.O. 1990, c. R.31, s. 17 (3).

#### **Communication**

- (4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act,
  - (a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law, information obtained by or on behalf of the Minister for the purposes of this Act; and
  - (b) allow another person employed by the Government of Ontario in the administration or enforcement of any law, to inspect or have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act. R.S.O. 1990, c. R.31, s. 17 (4).

#### **Reciprocal communication**

- (5) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to the Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act. R.S.O. 1990, c. R.31, s. 17 (5).

#### **Use of information**

- (6) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing. R.S.O. 1990, c. R.31, s. 17 (6).

#### **Idem**

- (7) The Minister may permit information or a copy of any record or thing obtained by or on behalf of the Minister for the purposes of this Act to be given to,
  - (a) the person from whom the information, record or thing was obtained; or
  - (b) any person,
    - (i) for the purpose of an objection or appeal that has been or may be taken by the person under this Act arising out of an assessment of tax under this Act in connection with which the information, record or thing was obtained, or
    - (ii) by whom an amount payable under this Act is payable or has been paid; or
  - (c) the legal representative of a person mentioned in clause (a) or (b) or the agent of the person authorized in writing in that behalf. R.S.O. 1990, c. R.31, s. 17 (7).

#### **Information**

- (8) The Minister may permit information or a copy of any record or thing obtained by or on behalf of the Minister for the purposes of this Act to be given to any person employed by any government if,
  - (a) the information, record or thing obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and



(b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty. R.S.O. 1990, c. R.31, s. 17 (8).

(9) REPEALED: 1994, c. 13, s. 12.

#### **Communication with the Ministry of Transportation**

(9.1) The Minister may disclose, or allow to be disclosed, information necessary for the administration and enforcement of the tax imposed by section 2 or 4.2 to an official of the Ministry of Transportation. 2001, c. 8, s. 231 (1).

#### **Communication with other governments, s. 3**

(9.2) The Minister may disclose, or allow to be disclosed, information necessary for the administration and enforcement of section 3 to an official of the Ministry of Transportation or to an official of a government of a member jurisdiction. 2001, c. 8, s. 231 (2); 2001, c. 23, s. 193 (1).

#### **Same**

(9.3) Any disclosure of information by an official of the Ministry of Transportation to an official of a government of a member jurisdiction for the purposes of the administration and enforcement of section 3 is deemed to be a disclosure by the Minister of Finance permitted under subsection (9.2). 2001, c. 8, s. 231 (2); 2001, c. 23, s. 193 (2).

#### **Offence**

(10) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. R.S.O. 1990, c. R.31, s. 17 (10).

#### **Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 12 - 23/06/1994

2001, c. 8, s. 231 (1) - 29/06/2001; 2001, c. 8, s. 231 (2) - 01/10/2001; 2001, c. 23, s. 193 (1, 2) - 01/10/2001

#### **Assessment of tax collected**

**18** (1) Where a vendor fails to make a return or a remittance as required under this Act or if the returns are not substantiated by the vendor's records, the Minister may make an assessment of the tax collected by such vendor for which the vendor has not accounted and such assessed amount shall thereupon be deemed to be the tax collected by the vendor. R.S.O. 1990, c. R.31, s. 18 (1).

#### **Assessment on inspection**

(2) Where it appears from an inspection, audit or examination of the books of account, records or documents of any vendor, purchaser or registrant that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax collected by the vendor or payable by the purchaser or registrant or the penalty imposed by subsection 20 (3) in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount of the tax collected by the vendor or payable by the purchaser or registrant or the penalty imposed by subsection 20 (3), as the case may be. R.S.O. 1990, c. R.31, s. 18 (2); 2001, c. 23, s. 194 (1).

#### **Assessment, four-year limitation**

(3) The Minister may assess or reassess any tax payable under this Act by a purchaser, other than a manufacturing contractor, or by a registrant within four years from the day such tax became payable. 2004, c. 31, Sched. 33, s. 3.

#### **Same, manufacturing contractor**

(3.0.1) The Minister may assess or reassess any tax payable by a manufacturing contractor under this Act within four years from the end of the manufacturing contractor's fiscal year during which the tax became payable. 2004, c. 31, Sched. 33, s. 3.

#### **Exception, misrepresentation or fraud**

(3.0.2) Despite subsections (3) and (3.0.1), the Minister may assess or reassess a purchaser or registrant at any time if the purchaser or registrant has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud in making a return or in supplying any information under this Act or in omitting to disclose any information. 2004, c. 31, Sched. 33, s. 3.

#### **Exception, waiver of limitation**

(3.0.3) Despite subsections (3) and (3.0.1), the Minister may assess or reassess a purchaser or registrant at any time if the purchaser or registrant has filed with the Minister a waiver in a form approved by the Minister before the expiry of the time provided in subsection (3) or (3.0.1), as the case may be. 2004, c. 31, Sched. 33, s. 3.

### **Revocation of waiver**

(3.0.4) If a purchaser or registrant files a waiver under subsection (3.0.3), the purchaser or registrant may file a notice of revocation of the waiver in a form approved by the Minister. 2004, c. 31, Sched. 33, s. 3.

### **Effect of revocation**

(3.0.5) If a purchaser or registrant files a notice of revocation of the waiver under subsection (3.0.4), the Minister shall not issue an assessment or reassessment under subsection (3) or (3.0.1), as the case may be, in reliance on the waiver more than one year after the date on which the notice of revocation is filed. 2004, c. 31, Sched. 33, s. 3.

### **Waiver, transitional**

(3.0.6) Despite subsections (3) and (3.0.1), if, before December 16, 2004, a person provided the Minister with a written waiver of the time limit, the Minister may assess or reassess the person at any time in respect of the period to which the waiver applies, and subsections (3.0.4) and (3.0.5) apply with necessary modifications in respect of the waiver. 2005, c. 31, Sched. 19, s. 6.

### **Assessment re amounts held in trust**

(3.1) The Minister may assess the amount that a person is responsible to pay under the following provisions, and the assessed amount shall be deemed to be tax collectable, collected or payable, as the case may be, by the person:

1. Subsection 6 (2), as it read on June 30, 2011, in respect of a sale in bulk described in subsection 6 (6).
2. Subsection 6 (5), in respect of a sale in bulk to which section 6 applies. 2013, c. 2, Sched. 12, s. 2.

### **Same**

(3.2) The Minister may assess the amount for which a person is liable under subsection 22 (6) and the assessed amount shall be deemed to be tax collected or collectable, as the case may be, by the person. 2001, c. 23, s. 194 (3).

### **Notice of assessment under subs. (1)**

(4) Where the Minister has made an assessment under subsection (1), he or she may send by prepaid mail or by personal service a notice of assessment to the vendor, requiring that the amount of the assessment made under subsection (1), be remitted to the Minister or otherwise accounted for. R.S.O. 1990, c. R.31, s. 18 (4); 1994, c. 13, s. 8 (1).

### **Notice of assessment**

(5) The Minister shall deliver by prepaid mail or personal service a notice of the assessment made under this section to the person assessed, at the person's latest known address, and if the person has more than one address, one of which is in Ontario, the notice shall be sent to the address in Ontario. 2001, c. 23, s. 194 (4).

### **Continuation of liability for tax**

(6) Liability for tax imposed by this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made. R.S.O. 1990, c. R.31, s. 18 (6).

### **Minister not bound by returns**

(7) The Minister is not bound by a return or information delivered by or on behalf of any person under this Act and may, despite a return or information so delivered or if no return or information has been delivered, assess the tax payable under this Act. R.S.O. 1990, c. R.31, s. 18 (7).

### **Assessment valid and binding**

(8) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding despite any error, defect or omission therein or in any proceeding under this Act relating thereto. R.S.O. 1990, c. R.31, s. 18 (8).

### **Payment**

(9) Every person assessed under this section shall pay to the Minister the amount assessed whether or not an objection to, or an appeal from, the assessment is outstanding. 1994, c. 13, s. 13.

### **Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 8 (1), 13 - 23/06/1994; 1996, c. 29, s. 30 - 09/12/1996

2001, c. 23, s. 194 (1, 2, 4) - 01/10/2001; 2001, c. 23, s. 194 (3) - 05/12/2001

2004, c. 31, Sched. 33, s. 3 - 16/12/2004

2005, c. 31, Sched. 19, s. 6 - 16/12/2004

2013, c. 2, Sched. 12, s. 2 - 30/06/2011

### **Assessment, non-arm's length transfers**

**18.1** (1) In this section,

“member of his or her family” means, in relation to a transferor, the parent, spouse, grandparent, child, grandchild, son-in-law, daughter-in-law, father-in-law or mother-in-law of the transferor; (“membre de sa famille”)

“spouse” means spouse as defined in section 29 of the *Family Law Act*. (“conjoint”) 2001, c. 23, s. 195; 2005, c. 5, s. 62 (9).

### **Liability to pay**

(2) If at any time a person transfers property (including money), either directly or indirectly, by means of a trust or by any other means to a member of his or her family, to an individual who is less than 18 years old at the time of the transfer, or to another person with whom the transferor is not dealing at arm's length, the transferor and transferee are jointly and severally liable to pay under this Act the amount determined under subsection (4). 2001, c. 23, s. 195; 2005, c. 5, s. 62 (10).

### **Same**

(3) For the purpose of subsection (2), persons shall be deemed not to deal with each other at arm's length if, by reason of subsections 251 (1) to (6) of the *Income Tax Act* (Canada), they are related to each other for the purposes of that Act. 2001, c. 23, s. 195.

### **Amount payable**

(4) The amount referred to in subsection (2) is the lesser of “A” and “B” where,

“A” is the amount, if any, by which the fair market value of the property transferred, at the time of the transfer, exceeds the fair market value, at the time of the transfer, of the consideration given by the transferee for the transfer, and

“B” is the total of all amounts each of which is,

- (a) any tax payable by the transferor under this Act at the time of the transfer or at any previous time but not paid,
- (b) any tax collected, collectable or payable but not remitted or transmitted as required under this Act by the transferor for the reporting period during which the transfer took place or any previous reporting period,
- (c) any penalty or interest for which the transferor is liable under this Act at the time of the transfer. 2001, c. 23, s. 195.

### **Same**

(5) Nothing in subsection (2) or (4) limits the liability of the transferor or transferee under any other provision of this Act. 2001, c. 23, s. 195.

### **Assessment**

(6) The Minister may assess a transferee at any time in respect of any amount payable by reason of this section, and sections 24 and 25 apply, with necessary modifications, to the assessment. 2001, c. 23, s. 195.

### **Effect of payment**

(7) If a transferor and transferee are jointly and severally liable to pay an amount under this section,

- (a) a payment by the transferee on account of the transferee's liability discharges the joint liability, to the extent of the payment; and
- (b) a payment by the transferor on account of the transferor's liability under this Act discharges the transferee's liability under this section to the extent that the payment reduces the balance of the transferor's liability under this Act to an amount less than the amount of the transferee's liability under this section. 2001, c. 23, s. 195.

### **Exception**

(8) Subsection (2) does not apply with respect to a transfer of property (including money) between spouses,

- (a) under a decree, order or judgment of a competent tribunal; or
- (b) under a written separation agreement if, at the time of the transfer, the transferor and transferee were living separate and apart as a result of a breakdown of their relationship. 2001, c. 23, s. 195; 2005, c. 5, s. 62 (11).

### **Section Amendments with date in force (d/m/y)**

2001, c. 23, s. 195 - 05/12/2001

2005, c. 5, s. 62 (9-11) - 09/03/2005

**Penalty assessment, failure to make return, etc.**

**19** (1) The Minister may assess any penalty payable by a vendor under subsection 32 (1) or (2) or by a person under subsection 15.1 (3) or (4) or any amounts owing by a person dealing with a non-resident contractor who fails to comply with subsection 39 (4). 1999, c. 9, s. 186.

**Notice of assessment under subs. (1)**

(2) Where the Minister has made an assessment under subsection (1), the Minister shall serve a notice of assessment on the vendor or the person dealing with the non-resident contractor by prepaid mail to his, her or its last known address or by personal service, requiring that the amount of the assessment made under subsection (1) be remitted to the Minister or otherwise accounted for. R.S.O. 1990, c. R.31, s. 19 (2); O.C. 355/93.

**Assessment valid and binding**

(3) Subject to being vacated or varied on objection or appeal and subject to reassessment, an assessment made under this section shall be deemed to be valid and binding despite any error, defect or omission therein or in any proceeding under this Act relating thereto. R.S.O. 1990, c. R.31, s. 19 (3).

**Payment**

(4) Every person assessed under this section shall remit to the Minister the amount assessed whether or not an objection to, or an appeal from, the assessment is outstanding. R.S.O. 1990, c. R.31, s. 19 (4); 1994, c. 13, s. 14 (2).

**Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 14 (2) - 23/06/1994; 1999, c. 9, s. 186 - 01/07/2000

o/c. 355/93 - 03/02/1993

**Other penalty assessments**

**Erroneous refunds or rebates**

**20** (1) The Minister may assess under this section any person who has received a refund or rebate under this Act or the regulations and who is not entitled to such refund or rebate, and such assessment shall be for the amount of the refund or rebate to which the person is not entitled and shall be accompanied by a brief statement in writing of the grounds upon which the person assessed is claimed not to be entitled to the amount claimed in the assessment. R.S.O. 1990, c. R.31, s. 20 (1); 2010, c. 26, Sched. 17, s. 10 (1).

**Disallowance of rebate or refund**

(2) Where a person has, in accordance with this Act and the regulations, applied for a refund or rebate under this Act or the regulations, and the person's claim is in whole or in part refused, the Minister shall cause to be served on such person a statement of disallowance and the statement shall specify the amount of the disallowance and the reasons therefor. R.S.O. 1990, c. R.31, s. 20 (2); 2010, c. 26, Sched. 17, s. 10 (2).

**Interpretation, certain rebates, etc.**

(2.1) Subsections (1) and (2) apply with respect to a credit or payment under a regulation made under subsection 51.1 (1) (Rebates for First Nations) as if the credit or payment were a refund of tax to the person under this Act. 2010, c. 26, Sched. 17, s. 10 (3).

**Penalty for non-collection of tax**

(3) The Minister may assess against every vendor who has failed to collect tax that the vendor is responsible to collect under this Act a penalty equal to the amount of tax that the vendor failed to collect, but, where the Minister has assessed such tax against the purchaser from whom it should have been collected, the Minister shall not assess the vendor. 1994, c. 13, s. 15 (1).

**Penalty for wilful non-collection of tax**

(4) Where the Minister is satisfied that a vendor's failure to collect tax that the vendor is responsible to collect under this Act or the regulations is attributable to neglect, carelessness, wilful default or fraud, the Minister may assess a penalty against such vendor,

- (a) in an amount equal to the greater of \$25 or 25 per cent of the tax that the vendor failed to collect, where a penalty has been assessed against the vendor under subsection (3) in respect of the failure to collect; and

- (b) in an amount equal to the greater of \$25 or one and one-quarter times the amount of tax that the vendor failed to collect where no penalty has been assessed against the vendor under subsection (3). R.S.O. 1990, c. R.31, s. 20 (4).

**Interpretation, certain rebates, etc.**

(4.1) If a supplier credits or pays an amount under a regulation made under subsection 51.1 (1) (Rebates for First Nations) to a person who is not entitled to the credit or payment, subsections (3), (4) and (5) to (5.4) apply with respect to the supplier as if the supplier were a vendor who fails to collect tax that the vendor is responsible to collect under this Act and as if the amount to which the person was not entitled were uncollected taxes. 2010, c. 26, Sched. 17, s. 10 (3).

**Assessment, certain rebates**

(4.2) If a supplier files an incorrect return or other information with the Canada Revenue Agency, the Minister of Revenue or any other tax authority indicating that the supplier has credited an amount to a person under a regulation made under subsection 51.1 (1) (Rebates for First Nations) when the supplier has not in fact credited that amount, the Minister may assess the supplier under this section, and the assessment shall be for the amount incorrectly reported as having been credited and shall be accompanied by a brief statement in writing of the grounds upon which the person is assessed. 2010, c. 26, Sched. 17, s. 10 (3).

**Penalty for false return, certain rebates**

(4.3) If the Minister is satisfied that a supplier, by neglect, carelessness, wilful default or fraud, filed a false return or other information with the Canada Revenue Agency, the Minister of Revenue or any other tax authority indicating that the supplier has credited an amount to a person under a regulation made under subsection 51.1 (1) (Rebates for First Nations) when the supplier has not in fact credited that amount, the Minister may assess a penalty against the supplier in an amount equal to the greater of \$25 or 25 per cent of the amount that was not in fact credited. 2010, c. 26, Sched. 17, s. 10 (3).

**Same**

(4.4) If the Minister assesses a penalty against a supplier under subsection (4.2), subsections (5) to (5.4) apply with respect to the supplier as if the supplier were a vendor and as if the penalty was imposed under subsection (3). 2010, c. 26, Sched. 17, s. 10 (3).

**Same**

(4.5) Expressions used in subsections (4.1) to (4.4) have the same meaning as in section 51.1 unless the context requires otherwise. 2010, c. 26, Sched. 17, s. 10 (3).

**Restriction, four-year limitation**

(5) No penalty imposed under subsection (3) shall be imposed with respect to tax that should have been collected more than four years immediately preceding the day of the assessment under subsection (3). 2004, c. 31, Sched. 33, s. 4.

**Exception, waiver of limitation**

(5.1) The restriction in subsection (5) does not apply if the vendor has filed with the Minister a waiver in a form approved by the Minister within four years from the date on which the tax should have been collected. 2004, c. 31, Sched. 33, s. 4.

**Revocation of waiver**

(5.2) If a vendor files a waiver under subsection (5.1), the vendor may file a notice of revocation of the waiver in a form approved by the Minister. 2004, c. 31, Sched. 33, s. 4.

**Effect of revocation**

(5.3) If a vendor files a notice of revocation of waiver under subsection (5.2), the Minister shall not assess a penalty under subsection (3) in reliance on the waiver more than one year after the date on which the notice of revocation is filed. 2004, c. 31, Sched. 33, s. 4.

**Waiver, transitional**

(5.3.1) If, before December 16, 2004, the vendor provided the Minister with a written waiver of the time limit, the restriction in subsection (5) does not apply and subsections (5.2) and (5.3) apply with necessary modifications in respect of the waiver. 2005, c. 31, Sched. 19, s. 7.

**Exception, misrepresentation or fraud**

(5.4) The restriction in subsection (5) does not apply if the Minister establishes that the vendor has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud in making a return or in supplying any information under this Act or in omitting to disclose any information. 2004, c. 31, Sched. 33, s. 4.

### **Penalty for understating fair value**

(6) Every purchaser who acquires or purchases from a person who is not a vendor within the meaning of this Act tangible personal property for the consumption of which the purchaser is liable to pay tax under this Act and who understates the fair value of such tangible personal property in any written statement or document shall pay a penalty assessed by the Minister of,

(a) not less than an amount equal to the greater of,

(i) \$50, or

(ii) the tax applicable to the amount by which the purchaser understated the fair value of such tangible personal property; and

(b) not more than \$2,500,

and such penalty shall be in addition to the tax properly payable by the purchaser on the consumption of such tangible personal property. R.S.O. 1990, c. R.31, s. 20 (6); 1994, c. 13, s. 15 (2); 1997, c. 10, s. 33.

### **Penalty, s. 18 assessment**

(7) Where, under section 18, the Minister has assessed a vendor for tax collected or a purchaser or registrant for tax payable, the Minister may further assess the vendor, purchaser or registrant a penalty equal to the greater of \$100 or 25 per cent of the tax so assessed under section 18, but no penalty shall be assessed under this subsection unless the Minister is satisfied that the non-compliance with the Act or regulations by the vendor, purchaser or registrant that gave rise to the assessment made under section 18 was attributable to neglect, carelessness, wilful default or fraud. R.S.O. 1990, c. R.31, s. 20 (7); 2001, c. 23, s. 196.

### **Notice of assessment**

(8) A statement under subsection (2) or a notice of an assessment made under this section may be served by sending such statement or notice by prepaid mail to the person whose claim is refused or against whom an assessment is made under this section, as the case may be, at the person's last known address in Ontario, or by serving such notice on the person personally. R.S.O. 1990, c. R.31, s. 20 (8).

### **Assessment conclusive**

(9) Subject to being vacated on an objection or appeal and subject to a reassessment, a statement or assessment under this section shall be deemed to be valid and binding, and the amount assessed in any such assessment shall, for the purposes of the collection or recovery thereof, be deemed to be tax owing under this Act and to be conclusively established as a debt owing to Her Majesty in right of Ontario. R.S.O. 1990, c. R.31, s. 20 (9).

### **Payment of assessment**

(10) Every person who is assessed under this section shall pay the amount assessed whether or not an objection to or appeal from the assessment is outstanding. R.S.O. 1990, c. R.31, s. 20 (10); 1994, c. 13, s. 15 (3).

### **Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 15 (1-3) - 23/06/1994; 1997, c. 10, s. 33 - 26/06/1997

2001, c. 23, s. 196 - 01/10/2001

2004, c. 31, Sched. 33, s. 4 - 16/12/2004

2005, c. 31, Sched. 19, s. 7 - 16/12/2004

2010, c. 26, Sched. 17, s. 10 (1-3) - 08/12/2010

### **Tax assessment, miscellaneous**

#### **Tax payment, non-legal tender**

**21** (1) A debt due to the Crown under section 8.1 of the *Financial Administration Act* in respect of a payment or remittance under this Act shall be deemed, when the Minister so assesses, to be tax payable under this Act by the taxpayer from whom the payment or remittance is payable, and may be collected and enforced as tax under the provisions of this Act, except that the provisions under sections 24 and 25 do not apply to this tax. 1994, c. 13, s. 16.

(2-4) REPEALED: 1994, c. 13, s. 16.

### **Service on partnership or corporation**

(5) Where a person on whom a notice of assessment is to be served under this Act is a partnership or corporation, the notice of assessment may be served on a partner or the president, manager, secretary or other director, agent or representative thereof. R.S.O. 1990, c. R.31, s. 21 (5).

### **Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 16 - 23/06/1994

### **Trust for money collected**

**22** (1) Any amount collected or collectable as or on account of tax under this Act by a vendor shall be deemed, despite any security interest in the amount so collected or collectable, to be held in trust for Her Majesty in right of Ontario and separate and apart from the vendor's property and from property held by any secured creditor that but for the security interest would be the vendor's property and shall be paid over by the vendor in the manner and at the time provided under this Act and the regulations. 1997, c. 43, Sched. D, s. 6.

### **Extension of trust**

(2) Despite any provision of this or any other Act, where at any time an amount deemed by subsection (1) to be held in trust is not paid as required under this Act, property of the vendor and property held by any secured creditor of the vendor that but for a security interest would be property of the vendor, equal in value to the amount so deemed to be held in trust shall be deemed,

- (a) to be held, from the time the amount was collected or collectable by the vendor, separate and apart from the property of the vendor in trust for Her Majesty in right of Ontario whether or not the property is subject to a security interest; and
- (b) to form no part of the estate or property of the vendor from the time the amount was so collected or collectable whether or not the property has in fact been kept separate and apart from the estate or property of the vendor and whether or not the property is subject to such security interest. 1997, c. 43, Sched. D, s. 6.

### **Same**

(3) The property described in subsection (2) shall be deemed to be beneficially owned by Her Majesty in right of Ontario despite any security interest in such property or in the proceeds of such property, and the proceeds of such property shall be paid to the Minister in priority to all such security interests. 1997, c. 43, Sched. D, s. 6.

(4) REPEALED: 2012, c. 8, Sched. 54, s. 2.

### **Minister's certificate**

(5) Every person who, as assignee, liquidator, administrator, receiver, receiver-manager, secured or unsecured creditor or agent of the creditor, trustee or other like person, other than a trustee appointed under the *Bankruptcy and Insolvency Act* (Canada), takes control or possession of the property of any vendor shall, before distributing such property or the proceeds from the realization thereof under that person's control, obtain from the Minister a certificate that the amount deemed by subsection (1) to be held in trust, including any interest and penalties payable by the vendor, has been paid or that security acceptable to the Minister has been given. 1997, c. 43, Sched. D, s. 6.

### **No distribution without Minister's certificate**

(6) Any person described in subsection (5) who distributes any property described in that subsection or the proceeds of the realization thereof without having obtained the certificate required by that subsection is personally liable to Her Majesty in right of Ontario for an amount equal to the amount deemed by subsection (1) to be held in trust, including any interest and penalties payable by the vendor. 1997, c. 43, Sched. D, s. 6.

### **Notice to be given**

(7) The person described in subsection (5) shall, within 30 days from the date of that person's assumption of possession or control, give written notice thereof to the Minister. 1997, c. 43, Sched. D, s. 6.

### **Minister to advise of indebtedness**

(8) As soon as practicable after receiving such notice, the Minister shall advise the person described in subsection (5) of the amount deemed by subsection (1) to be held in trust, including any interest and penalties thereon. 1997, c. 43, Sched. D, s. 6.

### **Definitions**

(9) In this section and in subsection 36 (2.1),

“secured creditor” means a person who has a security interest in the property of another person or who acts for or on behalf of that person with respect to the security interest, and includes a trustee appointed under a trust deed relating to a security interest, a receiver or receiver-manager appointed by a secured creditor or by a court on the application of a secured creditor and any other person performing a similar function; (“créancier garanti”)

“security interest” means any interest in property that secures payment or performance of an obligation, and includes an interest created by or arising out of a debenture, mortgage, lien, pledge, charge, deemed or actual trust, assignment or encumbrance of any kind whatsoever or whenever arising, created or deemed to arise or otherwise provided for, but does not include a security interest prescribed by the Minister as one to which this section does not apply. (“sûreté”) 1997, c. 43, Sched. D, s. 6.

### **Application**

(10) This section and clause 43 (2) (b) apply in respect of any tax collected or collectable by a vendor on or after January 1, 1998, whether or not the security interest was acquired before that date. 1997, c. 43, Sched. D, s. 6.

### **Section Amendments with date in force (d/m/y)**

1997, c. 43, Sched. D, s. 6 - 18/12/1997

2012, c. 8, Sched. 54, s. 2 - 20/06/2012

### **Liens and charges for tax liability**

#### **Lien on real property**

**23** (1) Any tax payable or required to be remitted under this Act by any taxpayer is, upon registration by the Minister in the proper land registry office of a notice claiming a lien and charge conferred by this section, a lien and charge on any interest the taxpayer liable to pay or remit the tax has in the real property described in the notice. 1994, c. 13, s. 17.

#### **Lien on personal property**

(2) Any tax payable or required to be remitted under this Act by any taxpayer is, upon registration by the Minister with the registrar under the *Personal Property Security Act* of a notice claiming a lien and charge under this section, a lien and charge on any interest in personal property in Ontario owned or held at the time of registration or acquired afterwards by the taxpayer liable to pay or remit the tax. 1994, c. 13, s. 17.

#### **Amounts included and priority**

(3) The lien and charge conferred by subsection (1) or (2) is in respect of all amounts for which the taxpayer is liable under this Act at the time of registration of the notice or any renewal of it and all amounts for which the taxpayer afterwards becomes liable while the notice remains registered and, upon registration of a notice of lien and charge, the lien and charge has priority over,

- (a) any perfected security interest registered after the notice is registered;
- (b) any security interest perfected by possession after the notice is registered; and
- (c) any encumbrance or other claim that is registered against or that otherwise arises and affects the taxpayer’s property after the notice is registered. 1994, c. 13, s. 17.

### **Exception**

(4) For the purposes of subsection (3), a notice of lien and charge under subsection (2) does not have priority over a perfected purchase money security interest in collateral or its proceeds and shall be deemed to be a security interest perfected by registration for the purpose of the priority rules under section 30 of the *Personal Property Security Act*. 1994, c. 13, s. 17; 2018, c. 17, Sched. 37, s. 2.

### **Lien effective**

(5) A notice of lien and charge under subsection (2) is effective from the time assigned to its registration by the registrar or branch registrar and expires on the fifth anniversary of its registration unless a renewal notice of lien and charge is registered under this section before the end of the five-year period, in which case the lien and charge remains in effect for a further five-year period from the date the renewal notice is registered. 1994, c. 13, s. 17; 2001, c. 23, s. 197 (1).

### **Same**

(6) If tax remains outstanding and unpaid at the end of the period, or its renewal, referred to in subsection (5), the Minister may register a renewal notice of lien and charge; the lien and charge remains in effect for a five-year period from the date the renewal notice is registered until the amount is fully paid, and shall be deemed to be continuously registered since the initial notice of lien and charge was registered under subsection (2). 2001, c. 23, s. 197 (2).



### **Where taxpayer not registered owner**

(7) Where a taxpayer has an interest in real property but is not shown as its registered owner in the proper land registry office,

- (a) the notice to be registered under subsection (1) shall recite the interest of the taxpayer in the real property; and
- (b) a copy of the notice shall be sent to the registered owner at the owner's address to which the latest notice of assessment under the *Assessment Act* has been sent. 1994, c. 13, s. 17.

### **Secured party**

(8) In addition to any other rights and remedies, if taxes or other amounts owed by a taxpayer remain outstanding and unpaid, the Minister has, in respect of a lien and charge under subsection (2),

- (a) all the rights, remedies and duties of a secured party under sections 17, 59, 61, 62, 63 and 64, subsections 65 (4), (5), (6) and (7) and section 66 of the *Personal Property Security Act*;
- (b) a security interest in the collateral for the purpose of clause 63 (4) (c) of that Act; and
- (c) a security interest in the personal property for the purposes of sections 15 and 16 of the *Repair and Storage Liens Act*, if it is an article as defined in that Act. 1994, c. 13, s. 17.

### **Registration of documents**

(9) A notice of lien and charge under subsection (2) or any renewal of it shall be in the form of a financing statement or a financing change statement as prescribed under the *Personal Property Security Act* and may be tendered for registration at a branch office established under Part IV of that Act, or by mail addressed to an address prescribed under that Act. 1994, c. 13, s. 17.

### **Errors in documents**

(10) A notice of lien and charge or any renewal thereof is not invalidated nor is its effect impaired by reason only of an error or omission in the notice or in its execution or registration, unless a reasonable person is likely to be materially misled by the error or omission. 1994, c. 13, s. 17.

### ***Bankruptcy and Insolvency Act (Canada) unaffected***

(11) Subject to Crown rights provided under section 87 of that Act, nothing in this section affects or purports to affect the rights and obligations of any person under the *Bankruptcy and Insolvency Act (Canada)*. 1994, c. 13, s. 17.

### **Effect of deemed trust**

(11.1) The registration of a notice of lien and charge under this section does not affect the operation of section 22 and shall apply to secure any liability of a taxpayer in addition to any deemed trust under that section. 1997, c. 43, Sched. D, s. 7.

### **Definitions**

(12) In this section,

“real property” includes fixtures and any interest of a taxpayer as lessee of real property; (“bien immeuble”)

“taxpayer” means any person assessed under this Act for tax, interest or penalties. (“contribuable”) 1994, c. 13, s. 17.

### **Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 17 - 23/06/1994; 1997, c. 43, s. 7, Sched. D - 18/12/1997

2001, c. 23, s. 197 (1, 2) - 05/12/2001

2018, c. 17, Sched. 37, s. 2 - 06/12/2018

### **Notice of objection**

**24** (1) A person who objects to an assessment made against the person under section 18, subsection 19 (1) or section 20 or to a statement under section 20 that is served on the person may, within 180 days from the day of mailing of the statement or notice of assessment, serve on the Minister a notice of objection in the form approved by the Minister.

### **Facts and reasons to be given**

(1.1) The notice of objection shall,

- (a) clearly describe each issue raised by way of objection; and
- (b) fully set out the facts and reasons relied on by the person in respect of each issue.

## **Same**

(1.2) If a notice of objection does not fully set out the facts and reasons relied on by the person in respect of an issue, the Minister may in writing request the person to provide the information, and the person shall be deemed to have complied with clause (1.1) (b) in respect of the issue if the person provides the information to the Minister in writing within 60 days after the day the request is made by the Minister.

## **Limitation**

(1.3) A person shall not raise, by way of objection under this section to a fresh statement or reassessment or to a variation of an assessment or statement under subsection (4), any issue that the person is not entitled to raise by way of appeal under section 25 in respect of the fresh statement or reassessment or of a variation of the assessment or statement. 1997, c. 43, Sched. D, s. 8 (1).

## **Service**

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister or by such other method of service as the Minister prescribes. R.S.O. 1990, c. R.31, s. 24 (2); 1997, c. 43, Sched. D, s. 8 (2).

## **Computation of time**

(3) For the purpose of calculating the number of days mentioned in subsection (1), (1.2) or 25 (1), the day on which a notice of assessment or statement is mailed under subsection (1), a request is made under subsection (1.2) or a notification is given under subsection (4) is the date stated in the notice of assessment, statement, request or notification. 1997, c. 43, Sched. D, s. 8 (3).

## **Reconsideration**

(4) Upon receipt of the notice of objection, the Minister shall with all due dispatch reconsider the assessment or statement objected to and vacate, confirm or vary the assessment or statement, or reassess or serve a fresh statement, and the Minister shall thereupon notify the person making the objection of his or her action in writing. R.S.O. 1990, c. R.31, s. 24 (4); 1997, c. 43, Sched. D, s. 8 (4).

## **Section Amendments with date in force (d/m/y)**

1997, c. 43, Sched. D, s. 8 (1-4) - 18/12/1997

## **Appeal**

**25** (1) When the Minister has given the notification required by subsection 24 (4), the person who has served a notice of objection under that section may appeal to the Superior Court of Justice to have the assessment or statement so objected to vacated or varied, but no appeal under this section shall be instituted after the expiration of ninety days from the day notice has been mailed to such person under subsection 24 (4). R.S.O. 1990, c. R.31, s. 25 (1); 2001, c. 23, s. 198 (1).

## **Appeal, how instituted**

(2) An appeal to the Superior Court of Justice shall be instituted by,

- (a) filing a notice of appeal with the court in the form approved by the Minister;
- (b) paying a fee to the court in the same amount and manner as the fee payable under regulations made under the *Administration of Justice Act* on the issue of a statement of claim; and
- (c) serving on the Minister a copy of the notice of appeal as filed. 1997, c. 43, Sched. D, s. 9; 2001, c. 23, s. 198 (2).

## **Limitation**

(2.1) A person is entitled to raise by way of appeal only those issues raised by the person in a notice of objection to the assessment being appealed and in respect of which the person has complied or was deemed to have complied with subsection 24 (1.1). 1997, c. 43, Sched. D, s. 9.

## **Exception**

(2.2) Despite subsection (2.1), a person may raise by way of appeal an issue forming the basis of a fresh statement or reassessment or of a variation of an assessment or statement under subsection 24 (4) if the issue was not part of the assessment or statement with respect to which the person served the notice of objection. 1997, c. 43, Sched. D, s. 9.

## **Application, subss. (2.1) and (2.2)**

(2.3) Subsections (2.1) and (2.2) apply only in respect of appeals in respect of which the period of 90 days referred to in subsection (1) begins after December 31, 1997. 1997, c. 43, Sched. D, s. 9.

**Waived right of objection or appeal**

(2.4) Despite subsection (1), no person shall institute an appeal under this section to have an assessment or statement vacated or varied in respect of an issue for which the right of objection or appeal has been waived in writing by or on behalf of the person. 1997, c. 43, Sched. D, s. 9.

**Service**

(3) A notice of appeal shall be served on the Minister by being sent by registered mail addressed to the Minister. R.S.O. 1990, c. R.31, s. 25 (3).

**Statement of allegations**

(4) The person appealing shall set out in the notice of appeal a statement of the allegations of fact and the statutory provisions and reasons that the person intends to submit in supporting the appeal. R.S.O. 1990, c. R.31, s. 25 (4).

**Extension of time**

(5) The time within which a notice of objection is to be served or an appeal is to be instituted may be extended by the Minister if application for extension is made,

- (a) in respect of a notice of objection under subsection 24 (1),
  - (i) before the expiration of the time allowed under that subsection for service of notice of the objection, or
  - (ii) within one year from the day of mailing or delivery by personal service of the notice of assessment or statement of disallowance that is the subject of the objection where the person wishing to make objection furnishes to the Minister an explanation satisfactory to the Minister that explains why the notice of objection could not be served in accordance with subsection 24 (1); or
- (b) with respect to an appeal, before the expiry of the time allowed under subsection (1) for instituting the appeal. R.S.O. 1990, c. R.31, s. 25 (5); 2006, c. 33, Sched. Z.4, s. 5.

**Motion to strike out notice of appeal**

(6) The Minister may move to the Superior Court of Justice to have a notice of appeal struck out in whole or in part. 2011, c. 9, Sched. 37, s. 3.

**Notice of motion**

(7) The Minister shall give written notice of a motion under subsection (6) to the person appealing at least 21 days before the motion is made. 2011, c. 9, Sched. 37, s. 3.

**Striking out notice of appeal**

(8) The court may strike out the notice of appeal in whole or in part upon being satisfied that one or more of the requirements of this section relating to a notice of appeal or to the instituting of an appeal have not been met. 2011, c. 9, Sched. 37, s. 3.

**Section Amendments with date in force (d/m/y)**

1997, c. 43, Sched. D, s. 9 - 18/12/1997

2001, c. 23, s. 198 (1, 2) - 05/12/2001

2006, c. 33, Sched. Z.4, s. 5 (1, 2) - 20/12/2006

2011, c. 9, Sched. 37, s. 3 - 12/05/2011

**Reply to notice of appeal**

**26** The Minister shall with all due dispatch serve on the person appealing and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and all statutory provisions and reasons as he or she intends to rely on, and where the Minister has failed to serve the reply within 180 days from the date of service upon him or her of the notice of appeal, the appellant may, upon twenty-one days notice to the Minister, bring a motion before a judge of the Superior Court of Justice for an order requiring the reply to be served within such time as the judge shall order, and the judge may, if he or she considers it proper in the circumstances, also order that, upon failure by the Minister to serve the reply in the time specified in the order, the assessment or statement with respect to which the appeal is taken shall be vacated and any tax paid pursuant to such assessment, or any refund disallowed pursuant to such statement, shall be repaid or refunded to the appellant but nothing in this section revives an appeal that is void or affects a statement or assessment that has become valid and binding under subsection 18 (8), subsection 19 (3) or subsection 20 (9). R.S.O. 1990, c. R.31, s. 26; 1999, c. 9, s. 187; 2001, c. 23, s. 199.

**Section Amendments with date in force (d/m/y)**

1999, c. 9, s. 187 - 14/12/1999

2001, c. 23, s. 199 - 05/12/2001

**Appeal procedure**

**27** (1) Upon the filing of the material referred to in section 26 with the Superior Court of Justice, the matter shall be deemed to be an action in the court. R.S.O. 1990, c. R.31, s. 27 (1); 2001, c. 23, s. 200.

**Facts not set out may be pleaded**

(2) Any fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in such manner and upon such terms as the court may direct. R.S.O. 1990, c. R.31, s. 27 (2).

**Disposal of appeal**

(3) The court may dispose of the appeal by,

- (a) dismissing it;
- (b) allowing it; or
- (c) allowing it, and,
  - (i) vacating the assessment,
  - (ii) varying the assessment,
  - (iii) restoring the assessment, or
  - (iv) referring the assessment back to the Minister for reconsideration and reassessment. R.S.O. 1990, c. R.31, s. 27 (3).

**Court may order payment of tax, etc.**

(4) The court may, in delivering judgment disposing of an appeal, order payment or refund of tax by the appellant or the Minister, as the case may be, and may make such order as to costs as is considered proper. R.S.O. 1990, c. R.31, s. 27 (4); 1994, c. 13, s. 8 (1).

**Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 8 (1) - 23/06/1994

2001, c. 23, s. 200 - 05/12/2001

**Dismissing appeal for delay**

**27.1** (1) If the person appealing fails to set the appeal down for trial within seven years after it is instituted under section 25, the Minister may move to the Superior Court of Justice for an order dismissing the appeal for delay. 2011, c. 9, Sched. 37, s. 4.

**Notice of motion**

(2) The Minister shall give written notice of a motion under subsection (1) to the person appealing at least 21 days before the motion is made. 2011, c. 9, Sched. 37, s. 4.

**Order**

(3) At the hearing of the motion under subsection (1), the person appealing shall show cause why the appeal should not be dismissed for delay and the court may,

- (a) if it is not satisfied that the appeal should proceed, dismiss the appeal for delay with or without costs; or
- (b) if it is satisfied that the appeal should proceed,
  - (i) set time periods for completion of the remaining steps necessary to have the appeal placed on a trial list and order that it be placed on a trial list within a specified time, or
  - (ii) make such other order as is just. 2011, c. 9, Sched. 37, s. 4.

**Setting aside dismissal**

(4) An order dismissing an appeal under this section may be set aside in accordance with the Rules of Civil Procedure. 2011, c. 9, Sched. 37, s. 4.

**Section Amendments with date in force (d/m/y)**

2011, c. 9, Sched. 37, s. 4 - 12/05/2011

**Appeal proceedings closed to public**

**28** Proceedings pursuant to sections 25, 26, 27 and 29 shall be closed to the public on request made to the court by the person appealing or by the Minister. R.S.O. 1990, c. R.31, s. 28.

**Appeals, Superior Court of Justice practice to govern**

**29** The practice and procedure of the Superior Court of Justice, including the right of appeal and the practice and procedure relating to appeals, apply to every matter deemed to be an action under section 25, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court. R.S.O. 1990, c. R.31, s. 29; 2001, c. 23, s. 201.

**Section Amendments with date in force (d/m/y)**

2001, c. 23, s. 201 - 05/12/2001

**Application under subrule 14.05 (2), Rules of Civil Procedure**

**29.1** (1) If the following conditions are satisfied, a person may make an application under subrule 14.05 (2) of the Rules of Civil Procedure to a judge of the Superior Court of Justice:

1. The application is to determine one or more issues of law that depend solely on the interpretation of,
  - i. this Act or the regulations, or
  - ii. this Act or the regulations and another Ontario statute or regulation.
2. The Minister has indicated in writing that the Minister is satisfied that it is in the public interest for the applicant to make the application.
3. The Minister and the applicant have executed a statement of agreed facts on which they both intend to rely and the applicant files the statement as part of the applicant's application record.
4. No facts remain in dispute between the Minister and the applicant that either of them believes may be relevant to the determination of any issue of law that is a subject of the application. 2006, c. 33, Sched. Z.4, s. 6.

**Application of rule 38.10, Rules of Civil Procedure**

(2) Rule 38.10 of the Rules of Civil Procedure does not apply to an application referred to in this section, except that the presiding judge may, on the hearing of the application, adjourn the application in whole or in part and with or without terms under clause 38.10 (1) (a). 2006, c. 33, Sched. Z.4, s. 6.

**Disposition of application**

- (3) The court may dispose of an application that is authorized under this section by,
- (a) making a declaration of law in respect of one or more issues of law forming the subject of the application;
  - (b) declining to make a declaration of law in respect of any of the issues of law forming the subject of the application; or
  - (c) dismissing the application. 2006, c. 33, Sched. Z.4, s. 6.

**Effect of declaration of law**

- (4) No declaration of law made on an application under this section,
- (a) shall be binding on the Minister and the applicant except in relation to the facts agreed to by them in the proceeding; or
  - (b) shall otherwise affect the rights of the Minister or the applicant in any appeal instituted under this Act. 2006, c. 33, Sched. Z.4, s. 6.

**No applications under subrule 14.05 (3)**

(5) No person other than the Minister may bring an application under subrule 14.05 (3) of the Rules of Civil Procedure on or after the day this section comes into force, in respect of any matter arising under this Act. 2006, c. 33, Sched. Z.4, s. 6.

### **Other proceedings**

(6) On the motion of the Minister, the court shall dismiss a proceeding commenced by an application under rule 14.05 of the Rules of Civil Procedure relating to a matter under this Act or the regulations if any condition in subsection (1) has not been satisfied or the application is prohibited under subsection (5). 2006, c. 33, Sched. Z.4, s. 6.

### **Section Amendments with date in force (d/m/y)**

2006, c. 33, Sched. Z.4, s. 6 - 20/12/2006

### **Irregularities, etc., directory provisions**

**30** An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act. R.S.O. 1990, c. R.31, s. 30.

### **Audit and inspection**

**31** (1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or records are or should be kept pursuant to this Act, and,

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of tax collectable or payable under this Act;
- (b) examine the property described by an inventory or any property, process or matter, an examination of which may, in the person's opinion, assist in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax collectable or payable under this Act; and
- (c) require a vendor, purchaser or registrant liable to collect or pay or considered possibly liable to collect or pay tax under this Act or, if the vendor, purchaser or registrant is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof and any other person on the premises of the vendor, purchaser or registrant to give him or her all reasonable assistance with the audit or examination and to answer all questions relating to the audit or examination, either orally or, if he or she so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises or place with him or her. R.S.O. 1990, c. R.31, s. 31 (1); 1993, c. 12, s. 9 (1); 2001, c. 23, s. 202 (1).

### **Same**

(2) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, by registered letter, or by a demand served personally or delivered by a courier service, within such reasonable time as is stipulated in the registered letter or demand, require from any person, partnership, syndicate, trust, corporation, or other business entity or from any partner, agent, member, director or officer thereof,

- (a) any information or additional information or a return required by section 15 or 15.1 or a supplementary return;
- (b) production of books, letters, accounts, invoices, financial statements, computer programs or data files, or any other documents on paper or stored electronically;
- (c) particulars of any amounts paid, held on behalf of or payable to a vendor, purchaser or registrant; or
- (d) a written statement, concerning any matter that may be relevant to the administration or enforcement of this Act or the regulations. 1994, c. 13, s. 18; 2001, c. 23, s. 202 (2).

### **Same**

(2.1) The Minister may require that a written statement referred to in clause (2) (d) be made by way of affidavit or statutory declaration. 1994, c. 13, s. 18.

### **Deemed receipt of registered letter**

(2.2) A registered letter sent to a person or entity under subsection (2) is deemed to have been received on the fifth day after the day of mailing unless the person or entity establishes that, although acting in good faith, the person or entity did not receive it or did not receive it until a later date. 2011, c. 9, Sched. 37, s. 5.

### **Admission of evidence**

(3) The Minister, or a person authorized by the Minister, may, for any purpose related to the administration or enforcement of this Act, reproduce from original data stored electronically any document previously issued by the Minister under this Act or any information previously submitted in any form by a vendor, and the electronically reproduced document shall be

admissible in evidence and shall have the same probative force as the original document would have had if it had been proved in the ordinary way. 1994, c. 13, s. 18; 1997, c. 43, Sched. D, s. 10.

(4) REPEALED: 1994, c. 13, s. 18.

### **Inquiry**

(5) The Minister may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not the person is an officer of the Ministry of Finance, to make such inquiry as the Minister considers necessary with reference to anything relating to the administration or enforcement of this Act. R.S.O. 1990, c. R.31, s. 31 (5); 1994, c. 13, s. 8 (2).

### **Copies**

(6) If a book, record or other document is examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry of Finance may make, or cause to be made, one or more copies thereof, and a document purporting to be certified by the person to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if proved in the ordinary way. 1993, c. 12, s. 9 (2); 1994, c. 13, s. 8 (2).

### **Compliance**

(7) No person shall hinder or molest or interfere with any person doing anything that the person is authorized by this section to do or prevent or attempt to prevent any person doing any such thing. R.S.O. 1990, c. R.31, s. 31 (7).

### **Idem**

(8) Despite any other law to the contrary, every person shall, unless the person is unable to do so, do everything he, she or it is required by this section to do. R.S.O. 1990, c. R.31, s. 31 (8).

### **Administration of oaths**

(9) Declarations or affidavits in connection with returns delivered under this Act or statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor. R.S.O. 1990, c. R.31, s. 31 (9).

### **Application of *Public Inquiries Act, 2009***

(10) Section 33 of the *Public Inquiries Act, 2009* applies to an inquiry under subsection (5). 2009, c. 33, Sched. 6, s. 85.

### **Section Amendments with date in force (d/m/y)**

1993, c. 12, s. 9 (1, 2) - 29/07/1993; 1994, c. 13, s. 8 (2) - 23/06/1994; 1994, c. 13, s. 18 - 23/06/1994; 1997, c. 43, Sched. D, s. 10 - 18/12/1997

2001, c. 23, s. 202 (1, 2) - 01/10/2001

2009, c. 33, Sched. 6, s. 85 - 01/06/2011

2011, c. 9, Sched. 37, s. 5 - 12/05/2011

### **Not delivering return, false statements, fraud**

#### **Penalty, not delivering return**

**32** (1) Every vendor who fails to deliver a return as required by this Act and the regulations shall pay a penalty of an amount equal to 10 per cent of the tax collectable by the vendor and 5 per cent of the tax payable by the vendor for the period in respect of which the return should have been delivered. 1999, c. 9, s. 188.

#### **Penalty, not remitting tax**

(2) Every vendor who delivers the return as required by this Act and the regulations but who fails to remit with that return the full amount of tax collectable or payable by the vendor as shown on the return shall pay a penalty of an amount equal to 10 per cent of the tax collectable by the vendor and not remitted and 5 per cent of the tax payable by the vendor and not remitted. 1999, c. 9, s. 188.

#### **One penalty**

(3) Where a penalty under subsection (1) has been assessed, no penalty for failing to deliver a return shall be assessed under subsection 15.1 (3) for that failure. 1999, c. 9, s. 188.

## **Same**

(3.1) Where a penalty under subsection (2) has been assessed, no penalty for failing to remit tax payable by the vendor shall be assessed under subsection 15.1 (4) for that failure. 1999, c. 9, s. 188.

## **False statements**

(4) Every person is guilty of an offence who has,

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer, delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of the vendor, purchaser or registrant;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries or omitted, or assented to or acquiesced in the omission, to enter a material particular in records or books of account of a vendor, purchaser or registrant;
- (d) wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit any offence described in clauses (a) to (d). R.S.O. 1990, c. R.31, s. 32 (4); 1994, c. 13, s. 19 (2); 1998, c. 34, s. 96 (1); 2001, c. 23, s. 203.

## **Penalty, false statement**

(4.1) A person convicted of an offence under subsection (4) is liable to one or both of the following penalties in addition to any penalty otherwise provided by the Act:

- 1. A fine that is,
  - i. a minimum of \$1,000 or 50 per cent of the amount of tax that should have been remitted as collected or payable or that was sought to be evaded, whichever is greater, and
  - ii. a maximum of double the amount of tax that should have been remitted as collected or payable or that was sought to be evaded, if the maximum so calculated is greater than \$1,000.
- 2. Imprisonment for a term of not more than two years. 1998, c. 34, s. 96 (2).

## **Refund obtained by fraud**

(5) Every person who, by deceit, falsehood, or by any fraudulent means, obtains or attempts to obtain a refund or rebate of tax under this Act or the regulations to which the person is not entitled is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than an amount that is double the amount of the refund or rebate obtained or sought to be obtained, or to a term of imprisonment of not more than two years, or to both. 1993, c. 12, s. 10 (2); 2010, c. 26, Sched. 17, s. 11 (1).

## **Rebate obtained by fraud**

(6) Every person who, by deceit, falsehood, or by any fraudulent means, obtains or attempts to obtain a credit or payment under a regulation made under subsection 51.1 (1) (Rebates for First Nations) to which the person is not entitled is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than an amount that is double the amount of the credit or payment obtained or sought to be obtained, or to a term of imprisonment of not more than two years, or to both. 2010, c. 26, Sched. 17, s. 11 (2).

## **False reporting**

(7) Every supplier, as defined in subsection 51 (1), is guilty of an offence if the supplier, by deceit, falsehood or by any fraudulent means, files a false return or other information with the Canada Revenue Agency, the Minister of Revenue or any other tax authority indicating that the supplier has credited an amount to a person under a regulation made under subsection 51.1 (1) (Rebates for First Nations) when the supplier has not in fact credited that amount. 2010, c. 26, Sched. 17, s. 11 (2).

## **Penalty, false reporting**

(8) A person convicted of an offence under subsection (7) is liable to a fine of not less than \$500 and not more than an amount that is double the amount falsely claimed to have been credited to a person under a regulation made under subsection 51.1 (1), or to a term of imprisonment of not more than two years, or to both. 2010, c. 26, Sched. 17, s. 11 (2).

## **Section Amendments with date in force (d/m/y)**

1993, c. 12, s. 10 (2) - 29/07/1993; 1994, c. 13, s. 19 (2) - 23/06/1994; 1998, c. 34, s. 96 (1, 2) - 18/12/1998; 1999, c. 9, s. 188 - 01/07/2000



2001, c. 23, s. 203 (1, 2) - 01/10/2001

2010, c. 26, Sched. 17, s. 11 (1, 2) - 08/12/2010

### **Extended time for making returns**

**33** The Minister may enlarge the time for making any return before or after the time for making it. R.S.O. 1990, c. R.31, s. 33.

### **Interest**

**34** (1) If on a particular date a debt as calculated under subsection (2) is payable by any person, the person shall be charged interest payable to the Minister at the prescribed rate and calculated in the prescribed manner on the amount of the debt from that date to the date the amount is received by the Minister. R.S.O. 1990, c. R.31, s. 34 (1); 1994, c. 13, s. 8 (1).

### **Calculation**

(2) The amount of the debt payable by a person under this Act at a particular date is the amount by which,

(a) the aggregate of,

- (i) all tax under this Act collectable by the person as a vendor or payable by the person as a purchaser or registrant before that date,
- (ii) all amounts or penalties or both assessed under this Act against the person at any time before that date, and
- (iii) the total of all amounts of interest charged under this section against the person in respect of a period of time ending before that date,

exceeds,

(b) the aggregate of,

- (i) the amount of all taxes remitted or paid by the person under this Act prior to that date, and
  - (ii) the total of all amounts of interest credited to the person in respect of a period of time ending before that date.
- R.S.O. 1990, c. R.31, s. 34 (2); 2001, c. 23, s. 204.

### **Compounding**

(3) The interest under subsection (1) shall be computed and compounded daily or as otherwise prescribed by the Minister to the date on which it is paid. R.S.O. 1990, c. R.31, s. 34 (3).

### **Minimum liability**

(4) Where the amount of interest is less than a minimum amount to be determined from time to time by the Minister, no interest shall be paid under this section. 1994, c. 13, s. 20.

### **Interest on penalties**

(5) For the purposes of this section, interest payable on all penalties imposed by this Act shall be calculated from the date the default to which they apply first occurred. 1994, c. 13, s. 20.

### **Exception, tax payable under s. 3**

(6) Despite subsections (1) and (3), the interest payable under this section in respect of tax payable under section 3 shall be,

- (a) charged at the rate prescribed by the regulations made under subsection 28.2 (5) of the *Fuel Tax Act*; and
- (b) calculated in the manner prescribed by the regulations under subsection 28.2 (5) of the *Fuel Tax Act*. 2004, c. 31, Sched. 33, s. 5.

### **Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 8 (1) - 23/06/1994; 1994, c. 13, s. 20 - 23/06/1994

2001, c. 23, s. 204 - 01/10/2001

2004, c. 31, Sched. 33, s. 5 - 16/12/2004

### **Overpayment**

**35** (1) If an amount in respect of an overpayment of tax is refunded or applied on other liabilities that may be owing to the Minister by the person receiving the refund, or, if by a decision of the Minister under section 24 or by a decision of a court, it is finally determined that an overpayment of tax has been made, interest at the rate prescribed, computed and compounded

daily, or as otherwise prescribed by the Minister, shall be paid or applied from the twenty-first day following the date of application for the refund to the date of the refund or application on other liability, unless the amount of the refund is less than a minimum amount to be determined from time to time by the Minister, in which case no interest shall be paid or applied under this section. 1994, c. 13, s. 21.

#### **Same**

(2) If, by a decision of the Minister under section 24 or by a decision of a court, it is finally determined that the tax payable under this Act is less than the amount assessed under section 18, 19 or 20 to which objection was taken and the decision makes it appear that there has been an overpayment of tax, interest at the rate prescribed, computed and compounded daily, or as otherwise prescribed by the Minister, shall be paid, or applied to other liabilities that may be owing to the Minister by the person assessed, from the date the overpayment arose to the date of refund or application to other liability. 1994, c. 13, s. 21.

#### **Exception**

(3) No interest shall be paid or applied under this section if the amount of the overpayment is less than the minimum refund established by the Minister. 1994, c. 13, s. 21.

#### **Exception, overpayment of tax payable under s. 3**

(4) Despite subsections (1) and (2), interest paid or applied under this section in respect of an overpayment of tax payable under section 3 shall be,

- (a) charged at the rate prescribed by the regulations made under subsection 28.2 (5) of the *Fuel Tax Act*; and
- (b) calculated in the manner prescribed by the regulations under subsection 28.2 (5) of the *Fuel Tax Act*. 2004, c. 31, Sched. 33, s. 6.

#### **Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 21 - 23/06/1994

2004, c. 31, Sched. 33, s. 6 - 16/12/2004

#### **Garnishment**

**36** (1) When the Minister has knowledge or suspects that a person (a “third party”) is, or within 365 days will become, indebted or liable to make any payment to a person (a “tax debtor”) liable to make a payment or remittance under this Act, the Minister may, by registered letter or by letter served personally, require the third party to promptly pay to the Minister any money that is otherwise payable by the third party to the tax debtor in whole or in part during the 365 days after the third party receives the letter. 2001, c. 23, s. 205 (1).

#### **Same**

(2) If the Minister has knowledge or suspects that within 365 days,

- (a) a bank, credit union, trust corporation or other similar person (in this section referred to as the “institution”) will loan or advance money to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by a person who is liable to make a payment or remittance under this Act and who is indebted to the institution; or
- (b) a person other than an institution will loan or advance money to or make a payment on behalf of a person who is liable to make a payment or remittance under this Act and who is,
  - (i) employed by or engaged in providing goods or services to that person or who was or will within 365 days be so employed or engaged, or
  - (ii) not dealing at arm’s length with that person,

the Minister may, by registered letter, or by letter served personally, require the institution or person, as the case may be, to pay forthwith to the Minister on account of the liability of the person liable to make a payment or remittance under this Act all or part of the money that would otherwise have been loaned, advanced or paid, and any money paid to the Minister shall be deemed to have been loaned, advanced or paid, as the case may be, to the person liable to make a payment or remittance under this Act. 2012, c. 8, Sched. 54, s. 3 (1).

#### **Same**

(2.1) Despite any provision of this or any other Act, when the Minister has knowledge or suspects that a person is, or within 365 days will become, indebted or liable to make any payment to,

- (a) a person whose property is subject to the deemed trust created by subsection 22 (1); or

- (b) a secured creditor who has a right to receive the payment that, but for a security interest in favour of the secured creditor, would be payable to the person referred to in clause (a),

the Minister may by ordinary mail or by demand served personally, require the first-named person to pay forthwith to the Minister on account of the liability of the person referred to in clause (a) all or part of the money that would otherwise be paid, and any such payment shall become the property of Her Majesty in right of Ontario despite any security interest in it and shall be paid to the Minister in priority to any such security interest. 1997, c. 43, Sched. D, s. 11 (2); 2001, c. 23, s. 205 (2).

#### **Application**

(2.2) Subsection (2.1) applies to amounts that become subject to a deemed trust under subsection 22 (1) on or after January 1, 1998, whether or not the security interest was acquired before that date. 1997, c. 43, Sched. D, s. 11 (2).

#### **Continuing effect of requisition**

(3) Where, under this section, the Minister has required a person to pay to the Minister money otherwise payable as interest, rent, remuneration, a dividend, an annuity payment or other periodic payment to a person who is liable to make a payment or remittance under this Act,

- (a) the requirement shall apply to all such periodic payments to be made by the first-named person to the second-named person after the date of receipt of the Minister's letter until the liability of the second-named person is satisfied; and
- (b) the payments required to be made to the Minister shall be the full amount of each payment or in such lesser amount as the Minister may designate in the Minister's letter. R.S.O. 1990, c. R.31, s. 36 (3); 1994, c. 13, s. 8 (1).

#### **Receipt**

(4) The receipt of the Minister for money paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment. R.S.O. 1990, c. R.31, s. 36 (4); 1994, c. 13, s. 8 (1).

#### **Liability of debtor**

(5) Every person who has discharged any liability to a person liable to make a payment or remittance under this Act without complying with the requirement under this section is liable to pay Her Majesty in right of Ontario an amount equal to the liability discharged or the amount that the person was required under this section to pay to the Minister, whichever is the lesser. R.S.O. 1990, c. R.31, s. 36 (5); 1994, c. 13, s. 8 (1).

#### **Idem**

(6) Every institution or person that fails to comply with a requirement under subsection (2) is liable to pay to Her Majesty in right of Ontario an amount equal to the lesser of,

- (a) the aggregate of the money advanced or paid; and
- (b) the amount that it was required under subsection (2) to pay to the Minister. R.S.O. 1990, c. R.31, s. 36 (6); 1994, c. 13, s. 8 (1); 2012, c. 8, Sched. 54, s. 3 (2).

#### **Service of garnishee**

(7) If a person (a "third party") who is, or within 365 days will become, indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carries on business under a name or style other than the third party's own name, the letter under this section from the Minister to the third party may be addressed using the name or style under which the third party carries on business and, in the case of personal service, the letter shall be deemed to have been validly served if it is left with an adult employed at the place of business of the addressee. 2001, c. 23, s. 205 (3).

#### **Same**

(8) If persons ("partners") who are, or within 365 days will become, indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carry on business in partnership, the letter under this section from the Minister to the partners may be addressed to the partnership name and, in the case of personal service, the letter shall be deemed to have been validly served if it is served on a partner or left with an adult employed at the place of business of the partnership. 2001, c. 23, s. 205 (3).

#### **Application of Wages Act**

(9) This section is subject to the provisions of the *Wages Act*. R.S.O. 1990, c. R.31, s. 36 (9).

### **Failure to remit**

(10) Where any person, without reasonable excuse, has failed to remit to the Minister the money as required under this section, the Minister may apply to the Superior Court of Justice for an order directing such person to remit the money which the person has failed to remit. R.S.O. 1990, c. R.31, s. 36 (10); 1994, c. 13, s. 8 (1); 2001, c. 23, s. 205 (4).

### **Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 8 (1) - 23/06/1994; 1997, c. 43, Sched. D, s. 11 (1, 2) - 18/12/1997

2001, c. 23, s. 205 (1) - 23/06/1994; 2001, c. 23, s. 205 (2-4) - 05/12/2001

2011, c. 9, Sched. 37, s. 6 (1, 2) - 12/05/2011

2012, c. 8, Sched. 54, s. 3 (1, 2) - 20/06/2012

### **Recovery of tax**

**37** (1) Upon default of payment by a vendor, purchaser or registrant of any tax collectable or payable under this Act or upon default of the payment of tax by a person dealing with a non-resident contractor who fails to comply with subsection 39 (4),

- (a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his or her name of office and may be continued by his or her successor in office as if no change had occurred and shall be tried without a jury;
- (b) the Minister may issue a warrant, directed to the sheriff for an area in which any property of a person liable to make a payment or remittance under this Act is located or situate, to enforce payment of the following amounts and the warrant has the same force and effect as a writ of execution issued out of the Superior Court of Justice:
  - (i) any amount required under this Act to be paid by the person,
  - (ii) interest on that amount from the date of the issue of the warrant, and
  - (iii) the costs, expenses and poundage of the sheriff. R.S.O. 1990, c. R.31, s. 37 (1); 2001, c. 23, s. 206; 2011, c. 9, Sched. 37, s. 7.

### **Application of subrule 60.07 (2), Rules of Civil Procedure**

(1.1) Subrule 60.07 (2) of the Rules of Civil Procedure does not apply in respect of a warrant issued by the Minister under clause (1) (b). 2010, c. 26, Sched. 17, s. 12.

### **Security for tax**

(2) Where the Minister considers it advisable to do so, the Minister may accept security for the payment of taxes in any form that the Minister considers satisfactory. R.S.O. 1990, c. R.31, s. 37 (2).

### **Proof of compliance**

(3) An affidavit of the Minister or an officer of the Ministry of Finance as to compliance with this Act or the failure of any person, partnership, syndicate, trust or corporation to comply with this Act is proof, in the absence of evidence to the contrary, of the facts set out in the affidavit, without proof of the signature or office of the person making the affidavit. 1993, c. 12, s. 11 (1); 1994, c. 13, s. 8 (2).

### **Notice**

(4) An affidavit mentioned in subsection (3) may be introduced in evidence without notice despite section 35 of the *Evidence Act*. 1993, c. 12, s. 11 (1).

### **Right to cross-examine**

(5) A party against whom affidavit evidence under subsection (3) is adduced may, with leave of the court, require the attendance of the deponent for the purposes of cross-examination. 1993, c. 12, s. 11 (2).

### **Section Amendments with date in force (d/m/y)**

1993, c. 12, s. 11 (1, 2) - 29/07/1993; 1994, c. 13, s. 8 (2) - 23/06/1994

2001, c. 23, s. 206 (1) - 01/10/2001; 2001, c. 23, s. 206 (2) - 05/12/2001

2010, c. 26, Sched. 17, s. 12 - 08/12/2010

2011, c. 9, Sched. 37, s. 7 - 12/05/2011

## **Recovery of costs**

**37.1** The Minister is entitled to recover from a person the reasonable costs and charges incurred by or on behalf of the Minister in the course of obtaining payment of any amount required to be paid under this Act by the person, if the costs and charges relate to any of the following things:

1. Service of a notice or other document.
2. Registration of a notice of lien and charge, including any charges for related searches and for enforcement activities.
3. An action under clause 37 (1) (a) for the recovery of tax, interest and penalties.
4. Issuance and execution of a warrant referred to under clause 37 (1) (b), to the extent that the costs and charges are not recovered by the sheriff upon execution of the warrant.
5. Other prescribed payments made by or on behalf of the Minister to a third party. 2011, c. 9, Sched. 37, s. 8.

## **Section Amendments with date in force (d/m/y)**

2011, c. 9, Sched. 37, s. 8 - 12/05/2011

## **Remedies for recovery of tax**

**38** The use of any of the remedies provided by sections 36 and 37 does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise. R.S.O. 1990, c. R.31, s. 38.

## **Surety bond**

**39** (1) The Minister may require any vendor to deposit with the Minister a bond by way of cash or other security satisfactory to the Minister in an amount to be determined by the Minister but not greater than an amount equal to six times the amount of the estimated tax that would normally be collected by the vendor each month under this Act, but in no case shall the deposit be less than \$100. R.S.O. 1990, c. R.31, s. 39 (1); 1994, c. 13, s. 8 (1).

## **Disposal of surety bond**

(2) Where a vendor who has deposited a bond with the Minister under subsection (1) has failed to collect or remit tax in accordance with this Act, the Minister may, by giving written notice to the vendor by registered mail or personal service, apply the bond in whole or in part to the amount that should have been collected, remitted or paid by the vendor as the amount due to Her Majesty in right of Ontario as of the date of the notice. R.S.O. 1990, c. R.31, s. 39 (2); 1994, c. 13, s. 8 (1).

## **Non-resident contractors**

(3) Where a non-resident contractor enters into a contract with a person pursuant to which or in the carrying out of which tangible personal property will be consumed or used in Ontario, the non-resident contractor shall deposit with the Minister a sum equivalent to 4 per cent of the total amount to be paid under the contract, or shall furnish the Minister with a guarantee bond satisfactory to the Minister in a sum equivalent to 4 per cent of such total amount, to secure payment of the tax payable in respect of tangible personal property consumed or used pursuant to or in the carrying out of the contract and shall obtain a certificate in duplicate from the Minister that the requirements of this subsection have been met. R.S.O. 1990, c. R.31, s. 39 (3); 1994, c. 13, s. 8 (1).

## **Idem**

(4) Any person dealing with a non-resident contractor without first obtaining the duplicate copy of the certificate from the Minister as required in subsection (3) shall deduct 4 per cent of all amounts payable to the non-resident contractor and pay it over to the Minister on behalf of or as agent for the non-resident contractor, or shall furnish the Minister with a guarantee bond satisfactory to the Minister in a sum equivalent to 4 per cent of such total amount, to secure payment of the tax payable in respect of tangible personal property consumed or used pursuant to or in the carrying out of the contract. R.S.O. 1990, c. R.31, s. 39 (4); 1994, c. 13, s. 8 (1).

## **Idem**

(5) A person who deals with a non-resident contractor and who fails to comply with subsection (4) is personally liable for payment of all amounts not paid over to the Minister as required by subsection (4), or such other amount as is established to the satisfaction of the Minister to be the tax imposed by this Act in respect of tangible personal property consumed or used pursuant to or in the carrying out of the contract. 1992, c. 13, s. 7; 1994, c. 13, s. 8 (1).

## **Definition**

(6) In this section,

“non-resident contractor” does not include a company incorporated pursuant to the laws of Ontario. R.S.O. 1990, c. R.31, s. 39 (6).

## **Section Amendments with date in force (d/m/y)**

1992, c. 13, s. 7 - 25/06/1992; 1994, c. 13, s. 8 (1) - 23/06/1994

## **Tax not to be absorbed by vendors**

**40** (1) No vendor shall advertise or post or otherwise quote a price that includes the tax imposed by this Act unless the vendor specifies separately the amount of the tax payable under this Act, and no vendor shall hold out or state to the public or to any purchaser, directly or indirectly, that the tax or any part thereof imposed by this Act will be assumed or absorbed by such vendor or that it will not be considered as an element in the price to the purchaser or, if added, that it or any part thereof will be refunded. R.S.O. 1990, c. R.31, s. 40 (1).

## **Where advertised price may include tax**

(2) Despite subsection (1), the Minister may, where he or she considers it appropriate, authorize a vendor to advertise or quote a price that includes the tax imposed by this Act but only where the amount or rate of the tax so included is separately specified in such manner as the Minister requires and the Minister may specify such other conditions with respect to the advertisement or quotation that the vendor must satisfy. R.S.O. 1990, c. R.31, s. 40 (2).

## **Same**

(3) Where a vendor collects the fee for the use of a commercial parking space through the use of a meter or other device that takes coins or tokens, the vendor may advertise or quote a price that includes the tax imposed by this Act. 1994, c. 13, s. 22.

## **Disclosure requirement re tax included price advertised**

(4) If the Minister authorizes a vendor under subsection (2) to advertise or quote a price for tangible personal property, a taxable service or an admission that includes the tax imposed under this Act, the price advertised or quoted is deemed to include the tax that would have been imposed under this Act but for section 2.0.0.1 if,

- (a) the consideration for the tangible personal property, taxable service or admission,
  - (i) becomes due after October 14, 2009 and before May 1, 2010, or
  - (ii) is paid after October 14, 2009 and before May 1, 2010 without having become due; and
- (b) the vendor has not disclosed in writing to the purchaser the amount of tax, if any, that is included in the price advertised or quoted. 2009, c. 34, Sched. R, s. 15.

## **Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 22 - 01/07/1993

2009, c. 34, Sched. R, s. 15 - 15/12/2009

## **Offences**

### **Returns**

**41** (1) Every person who has failed to deliver a return as and when required by this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$50 for each day during which the default continues. R.S.O. 1990, c. R.31, s. 41 (1); 1994, c. 13, s. 23.

### **Records, investigations, inquiries**

(2) Every person who contravenes section 16 or 31 is guilty of an offence and on conviction is liable to a fine of \$50 for each day during which the default continues. R.S.O. 1990, c. R.31, s. 41 (2).

## **Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 23 - 23/06/1994

## **Officers, etc., of corporation**

**42** Any officer, director or agent of a corporation, or any other person, who directed, authorized, assented to, acquiesced in or participated in the commission of any act by the corporation which is an offence under this Act, or the omission of any act the omission of which is an offence under this Act, is guilty of an offence and on conviction is liable to the punishment provided

for the offence whether or not the corporation has been prosecuted or convicted of any offence under this Act. R.S.O. 1990, c. R.31, s. 42.

### **Directors**

**43** (1) Where a corporation has failed to collect tax or has collected tax and failed to remit the tax or has failed to pay any interest or penalty relating thereto, the directors of the corporation at the time the corporation was required to collect or remit the taxes or to pay the interest or penalty relating thereto, are jointly and severally liable, together with the corporation to pay such amounts. R.S.O. 1990, c. R.31, s. 43 (1).

### **Exception**

(2) A director of a corporation is not liable under subsection (1) unless,

- (a) a warrant of execution for the amount of the corporation's liability as described in subsection (1) has been issued under clause 37 (1) (b) and directed to the sheriff of the county or district in which any property of the corporation is located or situate and the warrant has been returned by the sheriff unsatisfied in whole or in part;
- (b) the corporation becomes subject to a proceeding to which section 22 applies and a claim has been made under that section at any time from the date that the Minister should have been advised of the commencement of those proceedings to the date that is six months after the remaining property of the vendor has been finally disposed of;
- (b.1) the corporation has commenced proceedings under the *Companies' Creditors Arrangement Act* (Canada); or
- (c) the corporation has become a bankrupt due to an assignment or receiving order or it has filed either a notice of intention to file or a proposal under the *Bankruptcy and Insolvency Act* (Canada), and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within six months after the date of the assignment, receiving order or filing of the proposal. R.S.O. 1990, c. R.31, s. 43 (2); 1994, c. 13, s. 24; 1997, c. 43, Sched. D, s. 12; 2011, c. 9, Sched. 37, s. 9.

### **Prudent director**

(3) A director of a corporation is not liable for a failure described under subsection (1) if the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances. R.S.O. 1990, c. R.31, s. 43 (3).

### **Assessment**

(4) The Minister may assess any person for any amount payable by the person under this section and, where the Minister sends a notice of assessment, the sections of this Act respecting assessments, objections and appeals apply with such modifications as the circumstances require. R.S.O. 1990, c. R.31, s. 43 (4).

### **Time limit**

(5) Any assessment under subsection (4) of any amount payable by a person who is a director of a corporation shall not be made more than two years after the person last ceased to be a director of the corporation. R.S.O. 1990, c. R.31, s. 43 (5).

### **Execution**

(6) Where execution referred to in clause (2) (a) has been issued, the amount recoverable from a director is the amount remaining unsatisfied after execution. R.S.O. 1990, c. R.31, s. 43 (6).

### **Idem**

(7) Where a director of a corporation pays an amount in respect of a corporation's liability described in subsection (1) that is proved in liquidation, dissolution or bankruptcy proceedings or in respect of which a claim has been made in proceedings described in subsection 22 (2), the director is entitled to any preference that Her Majesty in right of Ontario would have been entitled to had the amount not been so paid and, where a warrant of execution has been issued and directed to the sheriff for the area in which any property of the corporation is located or situate, the director is entitled to an assignment of the warrant of execution to the extent of the director's payment, and the Minister is empowered to make the assignment. R.S.O. 1990, c. R.31, s. 43 (7).

### **Allocation by Minister**

(8) For the purposes of this section, the Minister may apply any payment or payments made by or on behalf of the corporation under this Act to any of the liabilities described in subsection (1) including penalties and interest relating thereto and any liability for tax payable by the corporation under this Act including any penalty and interest relating thereto. R.S.O. 1990, c. R.31, s. 43 (8); 2005, c. 31, Sched. 19, s. 8.

### **Section Amendments with date in force (d/m/y)**

1994, c. 13, s. 24 - 23/06/1994; 1997, c. 43, Sched. D, s. 12 (1, 2) - 18/12/1997

2005, c. 31, Sched. 19, s. 8 - 15/12/2005

2011, c. 9, Sched. 37, s. 9 - 12/05/2011

### **General offence**

**44** (1) Subject to subsection (2), any person who contravenes this Act or the regulations is guilty of an offence and, upon conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than \$50 and not more than \$5,000. R.S.O. 1990, c. R.31, s. 44 (1).

### **Failure to collect tax**

(2) Every person who fails to collect the tax imposed by this Act is guilty of an offence and is liable on conviction to a fine equal to the amount of the tax that should have been collected as determined under subsection (3) and, in addition, an amount not less than \$50 and not more than \$2,000. R.S.O. 1990, c. R.31, s. 44 (2); 1993, c. 12, s. 12.

### **Idem**

(3) The Minister shall determine the amount of the tax referred to in subsection (2) from such information as is available to him or her and shall issue a certificate as to the amount, but, except where he or she deems there has been deliberate evasion of this Act, the Minister shall not consider a period of more than four years in determining the amount of the tax referred to.

### **Idem**

(4) In any prosecution under subsection (2), a certificate signed or purported to be signed by the Minister stating the amount of tax that should have been collected is proof, in the absence of evidence to the contrary, of the amount of tax that should have been collected and of the authority of the person giving or making the certificate without any proof of appointment or signature.

### **Idem**

(5) Any information in respect of an offence under this Act may be for one or more than one offence, and no information, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

### **Idem**

(6) Neither the application of any provision of this section nor the enforcement of any penalty hereunder suspends or affects any remedy for the recovery of any tax payable under this Act. R.S.O. 1990, c. R.31, s. 44 (3-6).

### **Disposition of fines**

(7) Fines imposed under this Act shall be paid to the Minister on behalf of Her Majesty in right of Ontario. R.S.O. 1990, c. R.31, s. 44 (7); 1994, c. 13, s. 8 (1).

### **Default in paying fine**

(8) Where a fine provided for in this Act is imposed on any person as the result of the person's conviction for the commission of an offence against this Act, a sentence of imprisonment for not more than one year in default of payment of the fine may also be imposed on such person. R.S.O. 1990, c. R.31, s. 44 (8).

### **Section Amendments with date in force (d/m/y)**

1993, c. 12, s. 12 - 29/07/1993; 1994, c. 13, s. 8 (1) - 23/06/1994

### **Onus of proof**

**45** In any prosecution for failure to pay the tax or collect or remit the tax, the onus of proving that the tax was paid, collected or remitted, as the case may be, to the Minister is upon the accused. R.S.O. 1990, c. R.31, s. 45.

### **Limitation**

**46** A proceeding to prosecute an offence against this Act shall be commenced within six years of the time when the matter of the offence arose. R.S.O. 1990, c. R.31, s. 46.

### **Evidence in prosecution**

**47** (1) In a prosecution against a vendor under this Act, a copy of the application filed by a vendor for a permit under section 5, including an application made electronically and reproduced from data stored electronically, purporting to be certified by an official of the Ministry of Finance having access to the records of the vendor maintained by the Ministry, is proof, in the absence of evidence to the contrary, that the person charged is a vendor under this Act and a copy of a return filed by the



vendor, similarly certified, is proof, in the absence of evidence to the contrary, that the vendor collected the tax specified in the return. 1997, c. 43, Sched. D, s. 13.

### **Same**

(2) If a vendor is described as a partnership on an application form for a permit under section 5, a copy of the application form certified as mentioned in subsection (1) is proof, in the absence of evidence to the contrary, that the persons named therein are members of the partnership and a copy of a return filed by the partnership, certified as mentioned in subsection (1), is proof, in the absence of evidence to the contrary, that the partnership collected the tax specified in the return. 1993, c. 12, s. 13.

### **Section Amendments with date in force (d/m/y)**

1993, c. 12, s. 13 - 29/07/1993; 1997, c. 43, Sched. D, s. 13 - 18/12/1997

### **Regulations**

#### **Lieutenant Governor in Council regulations**

**48** (1) For the purpose of carrying into effect the provisions of this Act according to their true intent and of supplying any deficiency therein, the Lieutenant Governor in Council may make such regulations as are considered necessary and advisable. R.S.O. 1990, c. R.31, s. 48 (1).

### **Idem**

- (2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,
- (a) prescribing the method of collection and remittance of the tax and any condition or requirement affecting such collection or remittance;
  - (b) REPEALED: 1997, c. 43, Sched. D, s. 14 (1).
  - (c) defining any expression used in this Act or the regulations;
  - (d) providing for the rebate of the tax in whole or in part to the governing body of any religious, charitable or benevolent organization in respect of tangible personal property entering into capital investment by such organization and prescribing the terms and conditions under which such rebates may be made;
  - (e) providing for relaxing the strictness of this Act relative to the incidence or collection of tax hereunder in special circumstances where, without relaxation, inconvenience or hardship might result, including cases involving the purchase of tangible personal property at bazaars and rummage sales;
  - (f) providing for the rebate of tax in whole or in part owing to special circumstances, and prescribing the terms and conditions under which such rebates may be made;
  - (g) prescribing the rate of interest payable under this Act or the regulations, or a formula for computing that rate, and the method of calculating that interest;
  - (h) providing for the payment of interest to persons to whom any rebate of tax is made under clause (d) or (f) and prescribing the rate thereof;
  - (i) providing for the payment to vendors of all or any part of money paid as tax where such money was paid by a vendor on behalf of a purchaser who has defaulted in paying to the vendor the tax payable, and prescribing the conditions on which any payment authorized by this clause may be made;
  - (j) prescribing circumstances or situations in which the purchaser of an admission to an entertainment, event, dance, performance or exhibition is excluded from the exemption from tax on the price of admission contained in subsection 9 (2);
  - (k) prescribing circumstances or situations in which no tax is payable upon a transfer of tangible personal property between related persons;
  - (l) prescribing contracts of insurance and insurance schemes or compensation funds under statutes on which no tax is payable under section 2.1;
  - (m) prescribing additional circumstances in which interest is payable under this Act and the rate of the interest, a formula for computing the rate of interest or a method of calculating the interest. R.S.O. 1990, c. R.31, s. 48 (2); O.C. 355/93; 1994, c. 13, s. 25 (1); 1997, c. 43, Sched. D, s. 14 (1); 2008, c. 7, Sched. R, s. 6.

### Minister's regulations

- (3) The Minister may make regulations,
- (a) prescribing, defining or determining anything that the Minister is permitted or required by this Act to prescribe, define or determine;
  - (a.1) prescribing the rate of tax that is payable under section 2.1.1 in respect of transient accommodation in a tourism region;
  - (b) prescribing for the purposes of this Act or the regulations the records and information to be kept and maintained by a vendor, purchaser or registrant;
  - (c) providing for the use of purchase exemption certificates and other documents where purchasers or classes of purchasers are exempt from tax under this Act;
  - (d) prescribing persons or classes of persons with respect to whose consumption of prepared food products no tax is exigible provided that those prepared food products are provided by them without specific charge;
  - (e) determining the basis and method for payment, collection, or accounting for tax on the consumption or use of tangible personal property or a taxable service where such use or consumption frequently or substantially occurs outside Ontario or is alternately or concurrently taxable and exempt;
  - (e.1) governing the matters described in subsection 3 (12) in connection with the transfer of a multijurisdictional vehicle;
  - (f) attaching additional conditions to the use of a permit issued under section 5;
  - (g) subject to subsection (6), providing for the rebate of the tax imposed by section 2 or 4.2 paid on the purchase of a vehicle for which a permit is required under the *Highway Traffic Act*, where the energy to operate the vehicle is either,
    - (i) exclusively electrical energy or energy derived from the internal combustion of propane, natural gas, ethanol, methanol or manufactured gas, or
    - (ii) energy described in subclause (i), where the vehicle can also operate exclusively on energy derived from a fuel described under the *Fuel Tax Act* or the *Gasoline Tax Act*,but not any vehicle where the energy to operate the vehicle is a mix of a form of energy described in subclause (i) and energy derived from a fuel described under the *Fuel Tax Act* or the *Gasoline Tax Act*;
  - (g.1) subject to subsection (6), providing for the rebate of the tax imposed by section 2 or 4.2 paid on the purchase of a vehicle that is powered by a gasoline or diesel engine and for which a permit is required under the *Highway Traffic Act*, and any tangible personal property sold as a conversion kit, including the labour provided to install the conversion kit, if the vehicle is converted to permit it to operate on energy described in either subclause (g) (i) or (ii) within 180 days of the date of sale of the vehicle;
  - (h) subject to subsection (6), providing for the rebate of any tax paid by a purchaser under section 4, where the purchaser is entitled to a rebate referred to in clause (g.1) in connection with the conversion of the vehicle to permit it to operate on energy described in subclause (g) (i);
  - (h.1) subject to subsection (6), providing for the rebate of the tax imposed by section 2 paid on the purchase of tangible personal property sold as a conversion kit to be used to convert any vehicle powered by a gasoline or diesel engine into a vehicle that operates on energy described in either subclause (g) (i) or (ii), including the labour to install the kit, where the vehicle is not so converted within 180 days of the date of the sale of the vehicle;
  - (i) subject to subsection (7), providing for the rebate of the tax imposed by section 2 or 4.2 that has been paid on a hybrid electric vehicle, as defined by the Minister, for a vehicle purchased before April 1, 2012;
  - (j) providing for the computation, payment and collection of tax imposed by section 4, in respect of the acquisition of tangible personal property at a sale that is a lease or rental of the tangible personal property, in a manner different from the computation, payment and collection of tax described in section 4;
  - (k) REPEALED: 2009, c. 34, Sched. R, s. 16 (2).
  - (l) providing for a rebate of tax paid on tangible personal property purchased in Ontario and taken outside Ontario to be used permanently outside Ontario and prescribing the terms and conditions under which the rebate may be made;
  - (m) providing for a rebate of the tax in whole or in part to a person engaged in the business of farming in respect of tangible personal property purchased on or after May 8, 1996 and incorporated into structures to be used exclusively for farm purposes and prescribing the terms and conditions under which such rebates may be made;

- (n) providing for the refund of tax paid under section 4.2 if no tax is payable pursuant to a regulation made under the authority of clause (2) (k), and prescribing conditions that shall apply in respect of payment of such refunds;
  - (o) REPEALED: 2009, c. 34, Sched. R, s. 16 (2).
  - (p) authorizing the refund to or among employers of tax paid by them in respect of payments not liable to tax that were made by them to multi-employer benefits plans and prescribing the conditions on which such refunds may be made;
  - (q) REPEALED: 2009, c. 34, Sched. R, s. 16 (2).
  - (r) providing for a rebate of all or part of the tax paid in respect of a solar energy system, as defined by the Minister, that is purchased and incorporated into residential premises after November 25, 2002 and before January 1, 2010, and prescribing the terms and conditions under which the rebate may be made, including,
    - (i) the person to whom the rebate is payable,
    - (ii) the manner of determining the amount of the rebate, and
    - (iii) the class or classes of residential premises that qualify for the purposes of the rebate;
  - (s) providing for a rebate of all or part of the tax paid in respect of a wind energy system, a micro hydro-electric energy system or a geothermal energy system, as those terms are defined by the Minister, that is purchased and incorporated into residential premises after March 27, 2003 and before January 1, 2010, and prescribing the terms and conditions under which the rebate may be made including,
    - (i) the person to whom the rebate is payable,
    - (ii) the manner of determining the amount of the rebate, and
    - (iii) the class or classes of residential premises that qualify for the purposes of the rebate;
  - (t) determining the basis and method for calculating, paying, collecting or accounting for tax in respect of the consumption or use of returnable containers acquired in Ontario or elsewhere in Canada and delivered into Ontario to be refilled;
  - (u) REPEALED: 2010, c. 1, Sched. 25, s. 9.
  - (v) REPEALED: 2018, c. 17, Sched. 37, s. 3.
- R.S.O. 1990, c. R.31, s. 48 (3); 1993, c. 12, s. 14; 1994, c. 13, s. 25 (2, 3); 1996, c. 18, s. 18; 1997, c. 10, s. 34; 1997, c. 19, s. 22 (9); 1997, c. 43, Sched. D, s. 14 (2); 1998, c. 5, s. 47; 1999, c. 9, s. 189; 2000, c. 42, s. 95; 2001, c. 8, s. 232; 2001, c. 23, s. 207; 2002, c. 23, s. 5 (2); 2004, c. 31, Sched. 33, s. 7; 2005, c. 31, Sched. 19, s. 9; 2006, c. 9, Sched. M, s. 3 (1); 2007, c. 7, Sched. 36, s. 4; 2009, c. 34, Sched. R, s. 16 (1-3); 2010, c. 1, Sched. 25, s. 9; 2018, c. 17, Sched. 37, s. 3.

### **May be general or specific**

(3.1) A regulation made under clause (3) (q) may be general or specific in its application and may apply differently to different facilities or classes of facilities. 2002, c. 23, s. 5 (3).

### **Retroactive regulations**

(4) A regulation is, if it so provides, effective with reference to a period before it was filed. R.S.O. 1990, c. R.31, s. 48 (4).

### **Tax on transient accommodation**

(4.1) A regulation under clause (3) (a.1),

- (a) shall not prescribe a tax rate that applies before July 1, 2010; and
- (b) may prescribe different tax rates for different tourism regions. 2009, c. 34, Sched. R, s. 16 (4).

### **Rebate on vehicles**

(5) A regulation under clause (3) (g), (g.1), (h), (h.1) or (i) may prescribe the basis upon which the applicable rebate is calculated and the conditions under which the rebate is made. 2006, c. 9, Sched. M, s. 3 (2).

### **Maximum rebate on certain types of vehicle**

(6) The maximum amount of the rebate that may be given under a regulation made under clause (3) (g), (g.1), (h) or (h.1) in respect of a vehicle, other than a bus, as defined by the Minister, is,

- (a) \$750 for a vehicle that uses propane or is converted to use propane; and

- (b) \$1,000 for a vehicle other than a vehicle that uses propane or is converted to use propane. 2006, c. 9, Sched. M, s. 3 (2).

#### **Maximum rebate on hybrid electric vehicles**

(7) The maximum amount of the rebate that may be given under a regulation made under clause (3) (i) is \$1,000 for a hybrid electric vehicle delivered to the purchaser after May 9, 2001 and before March 24, 2006 and \$2,000 for a hybrid electric vehicle delivered to the purchaser after March 23, 2006. 2006, c. 9, Sched. M, s. 3 (2).

#### **Section Amendments with date in force (d/m/y)**

1993, c. 12, s. 14 (1) - 29/07/1993; 1993, c. 12, s. 14 (2) - 18/05/1989; 1993, c. 12, s. 14 (4) - 01/08/1991; 1993, c. 12, s. 14 (5) - 01/10/1992; 1994, c. 13, s. 25 (1) - 20/05/1993; 1996, c. 18, s. 18 - 08/05/1996; 1997, c. 10, s. 34 - 31/03/1997; 1997, c. 19, s. 22 (9) - 10/10/1997; 1997, c. 43, Sched. D, s. 14 (1, 2) - 18/12/1997; 1998, c. 5, s. 47 - 01/04/1998; 1999, c. 9, s. 189 (1) - 01/04/1999; 1999, c. 9, s. 189 (2) - 05/05/1999

2000, c. 42, s. 95 - 21/12/2000

2001, c. 8, s. 232 - 10/05/2001; 2001, c. 23, s. 207 (1, 2) - 01/10/2001; 2001, c. 23, s. 207 (3) - 05/05/1999

2002, c. 23, s. 5 (2, 3) - 09/12/2002

2004, c. 31, Sched. 33, s. 7 (1, 3) - 16/12/2004; 2004, c. 31, Sched. 33, s. 7 (2) - 19/05/2004

2005, c. 31, Sched. 19, s. 9 - 15/12/2005

2006, c. 9, Sched. M, s. 3 (1, 2) - 18/05/2006

2007, c. 7, Sched. 36, s. 4 (1, 2) - 17/05/2007

2008, c. 7, Sched. R, s. 6 - 14/05/2008

2009, c. 34, Sched. R, s. 16 (1-4) - 15/12/2009

2010, c. 1, Sched. 25, s. 9 - 18/05/2010

2018, c. 17, Sched. 37, s. 3 - 06/12/2018

#### **Forms**

**49** The Minister may approve the use of forms for any purpose of this Act and the forms may provide for such information to be furnished as the Minister may require. 1997, c. 19, s. 22 (10).

#### **Section Amendments with date in force (d/m/y)**

1997, c. 19, s. 22 (10) - 10/10/1997

### **COMPREHENSIVE INTEGRATED TAX COORDINATION AGREEMENT**

#### **Comprehensive Integrated Tax Coordination Agreement**

**50** (1) The Comprehensive Integrated Tax Coordination Agreement dated November 9, 2009, between the Minister on behalf of the Crown in right of Ontario and the Minister of Finance for Canada on behalf of the Government of Canada, is ratified and confirmed. 2009, c. 34, Sched. R, s. 17.

#### **Amendments**

(2) The Minister may at any time enter into an agreement with the Minister of Finance for Canada on behalf of the Government of Canada to amend the agreement or any amending agreement. 2009, c. 34, Sched. R, s. 17.

#### **Other agreements or arrangements**

(3) The Minister and the Minister of Revenue may, on behalf of the Crown in right of Ontario, enter into such other agreements or arrangements with the Government of Canada as either of them considers necessary or advisable respecting any matter relating to the Comprehensive Integrated Tax Coordination Agreement and its implementation. 2009, c. 34, Sched. R, s. 17.

#### **Minister may make payments**

(4) The Minister is authorized to make payments from the Consolidated Revenue Fund in accordance with the Comprehensive Integrated Tax Coordination Agreement and any agreement entered into under subsection (3) from amounts appropriated by the Legislature for those purposes. 2009, c. 34, Sched. R, s. 17.

#### **Section Amendments with date in force (d/m/y)**

## **Point of sale rebates**

### **Definitions**

**51** (1) In this section,

“eligible purchaser” means, in respect of property,

- (a) a person who acquires the property,
- (b) a person who receives delivery or possession of the property or brings the property into Ontario in circumstances in which tax under section 218.1 or Division IV.1 of Part IX of the Federal Act is payable by the person in respect of the property, or
- (c) a person who imports the property in circumstances in which tax under section 212.1 of the Federal Act is payable by the person in respect of the property; (“acheteur admissible”)

“Federal Act” means the *Excise Tax Act* (Canada); (“loi fédérale”)

“property” has the meaning given to that term by subsection 123 (1) of the Federal Act; (“bien”)

“supplier” means a supplier for the purposes of Part IX of the Federal Act; (“fournisseur”)

“supply” means a supply for the purposes of Part IX of the Federal Act. (“fourniture”) 2009, c. 34, Sched. R, s. 17; 2010, c. 26, Sched. 17, s. 13.

### **Supplier may make point of sale rebates**

(2) A supplier may, on behalf of the Crown in right of Ontario, pay or credit an eligible purchaser with an amount equal to the tax, in whole or in part, that is paid or payable under subsection 165 (2) of the Federal Act for the supply of a qualifying property that is a supply made in Ontario for the purposes of Part IX of the Federal Act. 2009, c. 34, Sched. R, s. 17.

### **Qualifying property**

(3) The following is qualifying property for the purposes of this section:

- 1. Books that satisfy the conditions prescribed by the Minister.
- 2. Children’s clothing, footwear and diapers that satisfy the conditions prescribed by the Minister.
- 3. Children’s car seats and booster seats that satisfy the conditions prescribed by the Minister.
- 4. Feminine hygiene products prescribed by the Minister.
- 5. Prepared food and beverages prescribed by the Minister that,
  - i. are purchased in circumstances prescribed by the Minister for a total consideration, as determined for the purposes of Part IX of the Federal Act, of not more than \$4, and
  - ii. are ready for immediate consumption.
- 6. Newspapers that satisfy the conditions prescribed by the Minister. 2009, c. 34, Sched. R, s. 17.

### **Application to Federal Minister**

(4) An eligible purchaser to whom an amount may be paid or credited under subsection (2) may apply to the Federal Minister for payment of the amount if the amount is not paid or credited by the supplier. 2009, c. 34, Sched. R, s. 17.

### **Federal Minister may pay or credit eligible purchaser an amount equal to tax**

(5) The Federal Minister may, on behalf of the Crown in right of Ontario, pay or credit to an eligible purchaser an amount equal to,

- (a) the amount of tax payable under section 212.1 of the Federal Act in respect of the importation of a qualifying property by the eligible purchaser; or
- (b) the amount of tax payable under section 218.1 or Division IV.1 of Part IX of the Federal Act by the eligible purchaser in respect of a qualifying property,
  - (i) that is delivered, or the physical possession of which is transferred, to the eligible purchaser in Ontario, or
  - (ii) that is brought by the eligible purchaser into Ontario. 2009, c. 34, Sched. R, s. 17.

**Deadline for refund**

(6) The Federal Minister shall, on behalf of the Crown in right of Ontario, pay an amount to which an eligible purchaser is entitled under subsection (4) or (5) if the eligible purchaser makes an application for the amount not more than four years after the day the tax under Part IX of the Federal Act became payable. 2009, c. 34, Sched. R, s. 17; 2010, c. 1, Sched. 25, s. 10.

**Form of application**

(7) An application under subsection (4) must be made in the form and manner required by the Federal Minister. 2009, c. 34, Sched. R, s. 17.

**Payment to supplier**

(8) If a supplier pays or credits an amount under subsection (2), the Federal Minister may, on behalf of the Crown in right of Ontario, pay or credit an equal amount to the supplier. 2009, c. 34, Sched. R, s. 17.

**Deduction or set-off from payment to Ontario**

(9) If the Federal Minister pays or credits an amount under subsection (5), (6) or (8), the Minister of Finance for Canada may deduct from or set off against a payment made or to be made by the Crown in right of Canada to the Crown in right of Ontario an amount equal to the amount that is paid or credited. 2009, c. 34, Sched. R, s. 17.

**Reduction of revenue**

(10) A payment or credit under this section in respect of qualifying property shall be considered to be a reduction of the revenue which would otherwise be payable to the Crown in right of Ontario under the agreement referred to in section 50. 2009, c. 34, Sched. R, s. 17.

**Section Amendments with date in force (d/m/y)**

2009, c. 34, Sched. R, s. 17 - 15/12/2009

2010, c. 1, Sched. 25, s. 10 - 18/05/2010; 2010, c. 26, Sched. 17, s. 13 - 08/12/2010

**Rebates for First Nations**

**51.1** (1) The Minister may, by regulation, provide for credits and payments to be made to an Indian, a band or a council of the band in respect of the provincial component of the tax that is paid or payable on or after September 1, 2010 under Part IX of the *Excise Tax Act* (Canada) in respect of Ontario. 2010, c. 26, Sched. 17, s. 14.

**Authority to pay**

(2) A regulation under subsection (1) may authorize the Minister of Finance to make payments out of the Consolidated Revenue Fund to an Indian, a band or a council of the band and may authorize the Federal Minister or a supplier to credit or pay an amount on behalf of the Crown in right of Ontario. 2010, c. 26, Sched. 17, s. 14.

**Obligation to repay**

(3) If a person receives a credit or payment under a regulation under subsection (1) to which the person is not entitled, the person shall pay to the Minister the amount to which the person was not entitled. 2010, c. 26, Sched. 17, s. 14.

**Same**

(4) This Act applies in respect of an amount payable to the Minister under subsection (3) as if the person were a purchaser and as if the amount were a tax payable under this Act. 2010, c. 26, Sched. 17, s. 14.

**Same**

(5) An amount payable under subsection (3) that has not been paid to the Minister constitutes a debt to the Crown in right of Ontario and may be recovered by way of deduction or set-off or in proceedings commenced at any time in a court of competent jurisdiction or in any other manner provided by this Act. 2010, c. 26, Sched. 17, s. 14.

**Deduction or set-off from payment to Ontario**

(6) Subsections 51 (9) and (10) apply, with necessary modifications, with respect to amounts credited or paid under this section by the Federal Minister. 2010, c. 26, Sched. 17, s. 14.

**Interpretation**

(7) Expressions used in this section have the same meaning as in section 51 unless the context requires otherwise. 2010, c. 26, Sched. 17, s. 14.

## **Transition**

(8) Ontario Regulation 317/10 (Rebates for First Nations in Ontario) is deemed to have been made under this section. 2010, c. 26, Sched. 17, s. 14.

## **Section Amendments with date in force (d/m/y)**

2010, c. 26, Sched. 17, s. 14 - 08/12/2010

## **Regulations**

### **Transitional**

**52** (1) The Minister may make regulations providing for transitional matters which, in the opinion of the Minister, are necessary or desirable,

- (a) to facilitate the implementation of the tax in respect of Ontario imposed under Part IX of the *Excise Tax Act* (Canada);
- (b) to facilitate the transition from a tax imposed under this Act to a tax imposed under Part IX of the *Excise Tax Act* (Canada). 2009, c. 34, Sched. R, s. 17.

### **Same**

(2) Without limiting the generality of subsection (1), the Minister may make regulations,

- (a) prescribing for the purposes of any provision in this Act a date that is later than a date set out,
  - (i) in the provision in this Act, or
  - (ii) in a regulation previously made under this clause;
- (b) providing for the rebate in whole or in part of tax paid under section 2 on construction materials that are purchased by a contractor, held in the contractor's inventory at the end of the day on June 30, 2010 and used after that day in a contract to which the tax under subsection 165 (2) of the *Excise Tax Act* (Canada) applies to repair or improve a residential building, and prescribing the conditions that must be satisfied for the rebate to be made, including,
  - (i) persons to whom rebates are payable,
  - (ii) the manner of determining the amount of a rebate,
  - (iii) the class or classes of residential property that qualify for the purposes of the rebate,
  - (iv) requirements regarding construction material held in inventory at the end of the day on June 30, 2010,
  - (v) requiring that all applications for rebates must be made to the Minister before January 1, 2011, and
  - (vi) requirements with respect to the nature of the services provided under the contract under which the construction material is used;
- (c) providing for the rebate of all or part of the tax under section 2 that is paid by a specified purchaser pursuant to section 2.0.0.1 if double taxation has resulted from the payment of tax by the specified purchaser under subsection 165 (2) of the *Excise Tax Act* (Canada), and providing for terms and conditions on which the rebate may be made. 2009, c. 34, Sched. R, s. 17; 2010, c. 1, Sched. 25, s. 11.

### **Prescribed date applies**

(3) If the Minister prescribes a date under clause (2) (a), the prescribed date applies for all purposes instead of the date it replaces. 2009, c. 34, Sched. R, s. 17.

### **Other matters**

(4) The Minister may make regulations prescribing additional requirements that apply to suppliers relating to point of sale rebates under subsection 51 (2). 2009, c. 34, Sched. R, s. 17.

## **Section Amendments with date in force (d/m/y)**

2009, c. 34, Sched. R, s. 17 - 15/12/2009

2010, c. 1, Sched. 25, s. 11 - 18/05/2010

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