

1982

## c 18 Provincial Land Tax Amendment Act, 1982

Ontario

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## CHAPTER 18

## An Act to amend the Provincial Land Tax Act

*Assented to June 25th, 1982*

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subclauses 1 (c) (vi) and (vii) of the *Provincial Land Tax Act*, <sup>s. 1 (c)</sup> <sub>(vi, vii),</sub> being chapter 399 of the Revised Statutes of Ontario, 1980, <sup>repealed</sup> are repealed.
- (2) Clauses 1 (h), (j) and (k) of the said Act are repealed. <sup>s. 1 (h, j, k),</sup> <sub>repealed</sub>
- (3) Section 1 of the said Act is amended by adding thereto the <sup>s. 1,</sup> <sub>amended</sub> following clauses:
- (p) “tenant” includes an occupant and the person in possession other than the owner;
- (q) “Treasurer” mean the Treasurer of Ontario and Minister of Economics.
2. Subsection 3 (1) of the said Act is amended by adding thereto the <sup>s. 3 (1),</sup> <sub>amended</sub> following paragraph:
19. All the machinery, plant and appliances, wherever situate, and all structures placed on, over, under or affixed to any highway, lane or other public communication, public place or water so long as such machinery, plant, appliances or structures are used by any telephone or telegraph company in connection with and as part of the operations of its telephone or telegraph business. <sup>Certain</sup> <sub>property of</sub> <sup>telephone and</sup> <sub>telegraph</sub> <sup>companies</sup>
3. Subsection 5 (2) of the said Act is repealed and the following <sup>s. 5 (2),</sup> <sub>re-enacted</sub> substituted therefor:
- (2) The collector may at any time assess or amend the assessment of any land liable to assessment and taxation under this Act <sup>Assessment</sup> <sub>or amendment</sub> <sup>of assessment</sup>

and, subject to section 22, such land shall be assessed against the owner thereof and against the tenant to the extent of the assessed value of the portion of the land occupied by the tenant, and the collector shall forthwith notify the owner and the tenant of such land of the assessment or the amendment.

s. 6,  
amended

4. Section 6 of the said Act is amended by inserting after "owner" in the third line "and tenant".

s. 9,  
re-enacted

5. Section 9 of the said Act is repealed and the following substituted therefor:

Return

9. The collector may at any time mail a form of return in a form prescribed by the Minister to any person to whom this Act applies in order to determine liability to tax under this Act, and such person shall complete and return it within thirty days from the date of mailing by the collector.

s. 10 (1-3),  
re-enacted;  
s. 10 (4),  
repealed

6.—(1) Subsections 10 (1), (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

Interpretation

(1) In this section,

(a) "gas" means natural gas, manufactured gas or propane or any mixture of any of them;

(b) "oil" means crude oil or liquid hydrocarbons or any product or by-product thereof;

(c) "pipe line" means, subject to subsection (3), a pipe line for the transportation or transmission of gas that is designated by the owner as a transmission pipe line and a pipe line for the transportation or transmission of oil, and includes,

(i) all valves, couplings, cathodic protection apparatus, protective coatings and casings,

(ii) all haulage, labour, engineering and overheads in respect of such pipe line,

(iii) any section, part or branch of any pipe line,

(iv) any easement or right of way used by a pipe line company, and

(v) any franchise or franchise right,

but does not include a pipe line or lines situate wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipe line terminal;

(d) "pipe line company" means every person, firm, partnership, association or corporation owning or operating a pipe line all or any part of which is situate in Ontario.

(2) All disputes as to whether or not a gas pipe line is a transmission pipe line shall, on the application of any interested party, be decided by the Ontario Energy Board and its decision is final. Disputes

(3) Notwithstanding any other provision of this Act, a pipe line shall be assessed for taxation purposes at the following rates: Assessment of pipe line

OIL TRANSMISSION PIPE LINE

Size of Pipe		Assessment per Foot of Length
3/4" to 1" . . . . .	Nominal Inside Diameter . . . . .	\$ 1.20
1 1/4" to 1 1/2" . . . . .	" " " . . . . .	1.45
2" and 2 1/2" . . . . .	" " " . . . . .	1.70
3" . . . . .	" " " . . . . .	2.20
4" and 4 1/2" . . . . .	" " " . . . . .	2.70
5" and 5 5/8" . . . . .	" " " . . . . .	3.20
6" and 6 5/8" . . . . .	" " " . . . . .	3.70
8" . . . . .	" " " . . . . .	5.90
10" . . . . .	" " " . . . . .	6.80
12" . . . . .	" " " . . . . .	8.55
14" . . . . .	Outside Diameter . . . . .	9.20
16" . . . . .	" " . . . . .	10.35
18" . . . . .	" " . . . . .	11.45
20" . . . . .	" " . . . . .	12.45
22" . . . . .	" " . . . . .	13.75
24" . . . . .	" " . . . . .	14.80
26" . . . . .	" " . . . . .	15.70
28" . . . . .	" " . . . . .	16.75
30" . . . . .	" " . . . . .	17.70
32" . . . . .	" " . . . . .	18.65
34" . . . . .	" " . . . . .	19.50
36" . . . . .	" " . . . . .	20.35
38" . . . . .	" " . . . . .	21.35

FIELD AND GATHERING PIPE LINE

Size of Pipe		Assessment per Foot of Length
3/4" to 1" . . . . .	Nominal Inside Diameter . . . . .	\$ .90
1 1/4" to 1 1/2" . . . . .	" " " . . . . .	1.09
2" and 2 1/2" . . . . .	" " " . . . . .	1.31
3" . . . . .	" " " . . . . .	1.69
4" and 4 1/2" . . . . .	" " " . . . . .	2.10
5" and 5 5/8" . . . . .	" " " . . . . .	2.47
6" and 6 5/8" . . . . .	" " " . . . . .	2.89
8" . . . . .	" " " . . . . .	4.65
10" . . . . .	" " " . . . . .	5.44
12" . . . . .	" " " . . . . .	6.90

GAS TRANSMISSION PIPE LINE

3/4" to 1" . . . . .	Nominal Inside Diameter . . . . .	\$ 1.20
1 1/4" to 1 1/2" . . . . .	" " " . . . . .	1.45
2" and 2 1/2" . . . . .	" " " . . . . .	1.75
3" . . . . .	" " " . . . . .	2.25
4" and 4 1/2" . . . . .	" " " . . . . .	2.80
5" and 5 5/8" . . . . .	" " " . . . . .	3.30
6" and 6 5/8" . . . . .	" " " . . . . .	3.85
8" . . . . .	" " " . . . . .	6.20
10" . . . . .	" " " . . . . .	7.25
12" . . . . .	" " " . . . . .	9.20
14" . . . . .	Outside Diameter . . . . .	10.00
16" . . . . .	" " . . . . .	11.40
18" . . . . .	" " . . . . .	12.75
20" . . . . .	" " . . . . .	14.00
22" . . . . .	" " . . . . .	15.65
24" . . . . .	" " . . . . .	17.00
26" . . . . .	" " . . . . .	18.25
28" . . . . .	" " . . . . .	19.70
30" . . . . .	" " . . . . .	21.10
32" . . . . .	" " . . . . .	22.50
34" . . . . .	" " . . . . .	23.80
36" . . . . .	" " . . . . .	25.15
38" . . . . .	" " . . . . .	26.70
42" . . . . .	" " . . . . .	29.50

s. 10,  
amended

(2) Section 10 of the said Act is amended by adding thereto the following subsections:

Reduction of  
assessment  
on pipe line

(10) Where a pipe line has been constructed and used for the transportation of oil or gas and ceases to be so used by reason of an order or regulation of an authority having jurisdiction in that behalf, other than the taxing authority, and an application to the proper authority for permission to abandon such pipe line has been refused, the assessment of such pipe line shall be reduced by 20 per cent so long as it is not used for the transportation of oil or gas.

Pipe line  
deemed to  
be land

(11) For the purpose of the tax under this Act, a pipe line or any part thereof situate in territory without municipal organization shall be deemed to be land to which this Act applies.

Depreciation  
of pipe  
lines

(12) A pipe line installed before 1970 shall be assessed for taxation at the rates set forth in subsection (3) but shall be depreciated up to the year 1970 at the rate of 5 per cent of the assessed value of the pipe line every three years from the year of installation, with a maximum depreciation of 55 per cent, and no allowance of depreciation shall be made with respect to a pipe line that is installed during or after 1970.

Review of  
rates, etc.

(13) The rates set out in subsection (3) and the year up to which depreciation is allowed set out in subsection (12) shall be

reviewed by the Minister in 1986 and every third year thereafter and in any such year the Lieutenant Governor in Council may by regulation amend or re-enact the table of rates set out in subsection (3) or change the year up to which depreciation is allowed set out in subsection (12).

(14) Notwithstanding any provision of this section to the contrary, the Lieutenant Governor in Council may, where two or more pipe lines occupy the same right-of-way, by regulation, designate the second and subsequent pipe lines and, by regulation, prescribe the percentage of the rates set out in subsection (3) at which the second and subsequent pipe lines are assessable and taxable and the percentages of rates as so prescribed shall apply until such percentages of rates are altered.

Where two or more pipe lines occupy same right-of-way

7. Section 11 of the said Act is repealed and the following substituted therefor:

s. 11, re-enacted

11.—(1) Every telegraph and telephone company doing business in Ontario in territory without municipal organization shall, on or before the 1st day of March in each year, transmit to the collector a statement in writing of the amount of the gross receipts of the company from the business it carries on in such territory without municipal organization for the next preceding year ending on the 31st day of December.

Returns by telegraph and telephone companies

(2) In determining the amount of the gross receipts of a telephone company in territory without municipal organization under subsection (1), a telephone company shall apportion the total gross receipts of the company in all of Ontario to territory without municipal organization in the proportion that the number of telephones connected to the company's system in territory without municipal organization bears to the total number of telephones connected to the company's system in all of Ontario as of the 31st day of December of the year in respect of which the statement is transmitted.

Apportionment of gross receipts

(3) For the purposes of subsection (1), gross receipts of a telephone company shall be the total of regularly recurring revenue arising from telephones and other equipment and shall include revenue from long distance calls.

What constitutes gross receipts

(4) In each year there is payable by every telegraph and telephone company that is required to file a statement under subsection (1), an annual tax of an amount equal to 5 per cent of the total gross receipts that are required to be shown by the company in the statement to be transmitted by it for that year under subsection (1).

Rate of tax

(5) The tax levied under this section shall be for the calendar year and becomes due and is payable on the 31st day of March in

Tax bill

the year in which it is imposed, and a bill for the amount imposed shall be mailed by the collector to the head office of every telegraph and telephone company subject to the tax under this section or to such other address as the company has directed in writing to the collector, on or before the 15th day of March in the year in which the tax is payable.

- Idem (6) The bill shall show the amount of the gross receipts upon which the tax is imposed, the rate of the tax imposed, the amount of tax payable and such other information as may be prescribed.
- Collector not bound by statements (7) The collector is not bound by a statement delivered under this section by any telephone or telegraph company and may, notwithstanding a statement so delivered, or if no statement has been delivered as required, determine the tax payable under this section by the company.
- Application to Supreme Court (8) Where any person taxed under this section disputes the amount of tax billed, he may apply to the Supreme Court of Ontario for a determination of the proper amount of tax payable, but no application under this section shall be instituted after the expiration of ninety days from the day the tax bill provided for under this section has been mailed.
- How action instituted (9) An application to the Supreme Court shall be instituted by serving on the Minister and the collector a notice of motion which is returnable not sooner than sixty days from the date of such service and by filing a copy thereof with the Registrar of the Supreme Court of Ontario or the local registrar of the Supreme Court for the county or district in which the taxpayer has its head office.
- Service (10) The notice of motion shall be served on the Minister and on the collector being sent by registered mail addressed to each or by personal service.
- Matter deemed action (11) Upon the filing of the notice of motion with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the taxpayer has its head office, the matter shall be deemed to be an action in the court.
- s. 21 (1), amended **8.** Subsection 21 (1) of the said Act is amended by adding at the end thereof "by the owner of such land".
- s. 22 (2) (c), amended **9.—**(1) Clause 22 (2) (c) of the said Act is amended by inserting after "tenant" in the first line "in addition to its meaning under section 1,".
- s. 22, amended (2) Section 22 of the said Act is amended by adding thereto the following subsection:

(3) Notwithstanding subsection 21 (1), every person assessed under this section is liable to pay the taxes assessed against him and in addition, the interest in such land, if any, of every person other than the Crown is subject to the special lien on land for taxes provided for in section 26. Persons liable to tax

**10.** Subsection 23 (1) of the said Act is amended by striking out “by this Act” in the second line and inserting in lieu thereof “under section 3” and by striking out “owner of land subject to taxation” in the fifth line and inserting in lieu thereof “person liable to pay such tax”. s. 23 (1), amended

**11.** Section 24 of the said Act is repealed and the following substituted therefor: s. 24, re-enacted

24. Except as otherwise provided in this Act, where any tax under this Act remains unpaid on the 1st day of April in the year for which it is payable, a penalty of 10 per cent shall be added thereto, but such penalty shall not in any case be less than \$6 and in addition such tax and penalty shall bear interest at such rate as is prescribed from the 1st day of April until the tax and penalty are paid and for all purposes the amount of such tax, penalty and interest shall be deemed to be tax due and payable under this Act. Penalty and interest on unpaid tax

**12.—(1)** Subsection 25 (3) of the said Act is amended by striking out “notwithstanding the receipt of a notice under section 9” in the second line. s. 25 (3), amended

(2) Subsection 25 (4) of the said Act is repealed. s. 25 (4), repealed

(3) Subsection 25 (5) of the said Act is amended by striking out “or (4)” in the second line. s. 25 (5), amended

(4) Subsection 25 (6) of the said Act is amended by striking out “(2), (3) or (4)” in the second line and inserting in lieu thereof “(2) or (3)”. s. 25 (6), amended

(5) Subsection 25 (7) of the said Act is repealed and the following substituted therefor: s. 25 (7), re-enacted

(7) Where any tax or arrears of tax billed under subsection (6) remains unpaid after the due date, a penalty of 10 per cent shall be added thereto, but such penalty shall not in any case be less than \$6 and in addition such tax or arrears of tax and penalty shall bear interest at such rate as is prescribed from the due date until paid and for all purposes the amount of such tax, arrears of tax, penalty and interest shall be deemed to be tax due and payable under this Act. Penalty and interest on unpaid tax

**13.** Subsection 26 (2) of the said Act is repealed and the following substituted therefor: s. 26 (2), re-enacted;  
s. 26 (3, 4), enacted



Recovery  
of tax

(2) Upon default of payment of any tax payable under this Act,

(a) the collector 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 the name of office of the collector and may be continued by his successor in office as if no change had occurred and shall be tried without a jury; and

(b) the collector may issue a warrant directed to the sheriff of the district in which any property of a person liable to pay any tax under this Act is located or situate for the amount of the tax owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

Compliance  
to be proved  
by affidavit

(3) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the collector with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry.

Remedies  
for recovery  
of tax

(4) The use of any of the remedies provided by this section, or section 27 or 33, 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 at law in favour of the Crown.

s. 27,  
re-enacted

**14.** Section 27 of the said Act is repealed and the following substituted therefor:

Garnishment

27.—(1) When the collector has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to pay any tax under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

(3) Every person who has discharged any liability to a person liable to pay any tax under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser. Liability of debtor

(4) Where a person who is or is about to become indebted or liable to make a payment to a person liable to pay any tax under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection (1) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee. Service on garnishee

(5) Where the persons who are or are about to become indebted or liable to make a payment to a person liable to pay any tax under this Act carry on business in partnership, the registered or other letter under subsection (1) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership. Idem

(6) Subject to the provisions of the *Wages Act*, where the collector has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the collector in the registered letter or letter served personally. Garnishment of wages R.S.O. 1980, c. 526

(7) Where any person, without reasonable excuse, has failed to remit to the Treasurer the moneys as required under this section, the collector may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit. Failure to remit

**15.** Section 29 of the said Act is repealed and the following substituted therefor: s. 29, re-enacted

29. A tax bill shall be deemed to be delivered to an owner or tenant of land to which this Act applies or to his agent or representative where it is mailed post paid to the latest known address of such owner, tenant, agent or representative. Delivery of tax bills

**16.** Section 31 of the said Act is amended by adding thereto the following subsection: s. 31, amended

Refunds of  
tax on gross  
receipts

(4) The collector may in any year reduce, refund or pay to the municipality any part of the tax imposed under section 11 on gross receipts where such receipts arose from telephones or other equipment situate in, on or under land that became part of a municipality in such year.

s. 33 (1),  
amended

**17.**—(1) Subsection 33 (1) of the said Act is amended by inserting after “under” in the first line and in the eleventh line “section 3 of”.

s. 33 (2),  
re-enacted

(2) Subsection 33 (2) of the said Act is repealed and the following substituted therefor:

Idem

(2) Where no letters patent from the Crown have issued granting land in respect of which tax remains unpaid for a period of two years or more, the collector may, notwithstanding the requirement in subsection (1) of registering a caution, commence the forfeiture proceedings described therein by sending by registered mail to the persons described in that subsection, the notice of liability to forfeiture described therein.

s. 33 (8),  
amended

(3) Subsection 33 (8) of the said Act is amended by striking out “in red ink” in the fourth line.

s. 35,  
amended

**18.** Section 35 of the said Act is amended by striking out “owner” in the first line and inserting in lieu thereof “person”.

s. 38  
(a, d, e),  
re-enacted

**19.**—(1) Clauses 38 (a), (d) and (e) of the said Act are repealed and the following substituted therefor:

(a) defining any word or expression used in this Act that has not already been expressly defined in this Act;

(d) for the purposes of subsection 10 (13), amending the table of rates set out in subsection 10 (3) and changing the year up to which depreciation shall be allowed set out in subsection 10 (12);

(da) for the purposes of subsection 10 (14), designating second and subsequent pipe lines and prescribing the percentage of the rates set out in subsection 10 (3) at which second and subsequent pipe lines shall be assessed and taxed;

(e) designating pipes in addition to those mentioned in clause 10 (1) (c) as pipe lines.

s. 38,  
amended

(2) Section 38 of the said Act is amended by adding thereto the following clauses:

- (h) providing for the payment of interest on any refund or rebate of tax that is authorized by this Act;
- (i) prescribing any rate of interest that is to be prescribed and the method by which it is to be calculated;
- (j) designating classes of land and declaring gross receipts from business carried on on such lands to be exempt, wholly or partially from the tax imposed under section 11.

(3) The said section 38 is further amended by adding thereto the following subsections: s. 38,  
amended

(2) The Minister may make regulations, Regulations  
by Minister

- (a) prescribing, defining or determining anything that he is permitted or required by this Act to prescribe, define or determine;
- (b) prescribing any form, return or bill required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form, return or bill shall be completed and what information it shall contain.

(3) A regulation is, if it so provides, effective with reference to a period before it was filed. Retroactivity

**20.**—(1) This Act, except section 11 and subsection 12 (5), comes into force on the 1st day of January, 1983. Commence-  
ment

(2) Section 11 and subsection 12 (5) come into force on the 1st day of April, 1983. Idem

**21.** The short title of this Act is the *Provincial Land Tax Amendment Act, 1982*. Short title

