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c 36 Retail Sales Tax Amendment Act, 1982

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CHAPTER 36

An Act to amend the Retail Sales Tax Act

Assented to July 7th, 1982

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

1.—(1) Paragraph 4 of section 1 of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, is amended by striking out “and” at the end of clause (c), by adding “and” at the end of clause (d) and by adding thereto the following clause:

s. 1, par. 4, amended

(e) in the case of a sale within the meaning of clause (i) of paragraph 17, the fair market value of the tangible personal property transferred to any shareholder,

.

(2) Paragraph 17 of the said section 1 is amended by striking out all that part of the paragraph following clause (h) and by adding thereto the following clause:

s. 1, par. 17, amended

(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.

(3) Paragraph 19 of the said section 1 is amended by striking out “manufactured gas, and any chattel that is a fixture and for the use, possession or enjoyment of which a fee, charge or rent is paid that is not included in any fee, charge or rent paid

s. 1, par. 19, amended

for possession or occupation of the real property to which the chattel is affixed" in the fourth, fifth, sixth, seventh, eighth and ninth lines and inserting in lieu thereof "and manufactured gas".

s. 1, par. 21,
amended

- (4) Paragraph 21 of the said section 1 is amended by striking out "or" at the end of clause (a), by adding "or" at the end of clause (b) and by adding thereto the following clause:

(c) labour provided to install, adjust, repair or maintain tangible personal property.

s. 1, par. 24,
amended

- (5) Paragraph 24 of the said section 1 is amended by inserting after "lodging" in the fifth line "and includes the provision of prepared food products provided pursuant to the American plan, modified American plan or any other arrangement which combines the provision of lodging and prepared food products at a single price,".

s. 2 (2),
re-enacted

- 2.—**(1) Subsection 2 (2) of the said Act is repealed and the following substituted therefor:

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 10 per cent of the fair value thereof.

s. 2 (3),
amended

- (2) Subsection 2 (3) of the said Act is amended by inserting after "service" in the first line "described in clause (a) or (c) of paragraph 21 of section 1".

s. 2,
amended

- (3) Section 2 of the said Act is amended by adding thereto the following subsection:

Idem

(3a) Every purchaser of a taxable service described in clause (b) of paragraph 21 of section 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.

s. 5 (1),
par. 1,
re-enacted

- 3.—**(1) Paragraph 1 of subsection 5 (1) of the said Act is repealed and the following substituted therefor:

1. food products for human consumption except,

(a) candies, confections, snack foods or soft drinks,
and

(b) prepared food products purchased after the 13th day of June, 1982 from an eating establishment, as defined by the Minister.

- (2) Paragraph 2 of the said subsection 5 (1) is repealed and the following substituted therefor: s. 5 (1), par. 2, re-enacted
2. taxable services that are described in clause (c) of paragraph 21 of section 1 and that are,
 - (a) provided to repair, adjust, restore or maintain real property,
 - (b) provided to install tangible personal property that will become real property upon installation,
 - (c) 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 or where a rebate of the tax paid on those repairs or repair parts is provided under this Act or the regulations,
 - (d) provided to repair or recondition tangible personal property purchased for resale by a vendor, or
 - (e) provided by a person for his own consumption or use.
- (3) Paragraph 3 of the said subsection 5 (1) is repealed. s. 5 (1), par. 3, repealed
- (4) Paragraph 14 of the said subsection 5 (1) is repealed and the following substituted therefor: s. 5 (1), par. 14, re-enacted
14. vehicles that are required to be licensed under the *Highway Traffic Act* and the energy to operate which is either, R.S.O. 1980, c. 198
 - (a) exclusively electrical energy or energy derived from internal combustion of ethanol, methanol, natural gas or manufactured gas, or
 - (b) a combination of such energy with any fuel taxed under the *Gasoline Tax Act*, the *Motor Vehicle Fuel Tax Act* or the *Fuel Tax Act, 1981*. R.S.O. 1980, cc. 186, 300; 1981, c. 59
- (5) Paragraph 15 of the said subsection 5 (1) is amended by inserting after "equipment" in the first line "agricultural products". s. 5 (1), par. 15, amended

s. 5 (1),
pars. 16, 21,
24, repealed

- (6) Paragraphs 16, 21 and 24 of the said subsection 5 (1) are repealed.

s. 5 (1),
par. 27,
re-enacted

- (7) Paragraph 27 of the said subsection 5 (1) is repealed and the following substituted therefor:

27. 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.

s. 5 (1),
pars. 29, 30,
repealed

- (8) Paragraphs 29 and 30 of the said subsection 5 (1) are repealed.

s. 5 (1),
par. 34,
amended

- (9) Paragraph 34 of the said subsection 5 (1) is amended by striking out "500 tons gross" and inserting in lieu thereof "1,400 cubic metres".

s. 5 (1),
par. 38,
re-enacted

- (10) Paragraph 38 of the said subsection 5 (1) is repealed and the following substituted therefor:

38. equipment designed solely for the use of persons who are chronic invalids or physically handicapped.

s. 5 (1),
par. 45,
amended

- (11) Clause (e) of paragraph 45 of the said subsection 5 (1) is amended by striking out "a captive balloon with a volume of 150,000 cubic feet or more, or" in the fourth and fifth lines.

s. 5 (1),
par. 47,
amended

- (12) Paragraph 47 of the said subsection 5 (1) is amended by striking out "500 tons gross" in the fourth line and inserting in lieu thereof "1,400 cubic metres".

s. 5 (1),
pars. 48, 49,
51, 52,
repealed

- (13) Paragraphs 48, 49, 51 and 52 of the said subsection 5 (1) are repealed.

s. 5 (1),
par. 53,
re-enacted

- (14) Paragraph 53 of the said subsection 5 (1) is repealed and the following substituted therefor:

53. books, as defined by the Minister.

s. 5 (1),
par. 55,
re-enacted

- (15) Paragraph 55 of the said subsection 5 (1), as amended by the Statutes of Ontario, 1981, chapter 38, section 2, is repealed and the following substituted therefor:

55. magazines, as defined by the Minister, but only where purchased by subscription.

s. 5 (1),
par. 57,
repealed

- (16) Paragraph 57 of the said subsection 5 (1) is repealed.

s. 5 (1),
par. 65,
re-enacted

- (17) Paragraph 65 of the said subsection 5 (1) is repealed and the following substituted therefor:

65. publications, as defined by the Minister, of a religious, charitable or benevolent organization.

- (18) Paragraph 67 of the said subsection 5 (1) is repealed. s. 5 (1), par. 67, repealed
- (19) Paragraph 68 of the said subsection 5 (1), as re-enacted by the Statutes of Ontario, 1981, chapter 38, section 2, is repealed. s. 5 (1), par. 68, repealed
- (20) Paragraphs 69 and 72 of the said subsection 5 (1) are repealed. s. 5 (1), pars. 69, 72, repealed
- (21) Paragraph 75 of the said subsection 5 (1) is amended by striking out "500 tons gross" in the second line and inserting in lieu thereof "1,400 cubic metres". s. 5 (1), par. 75, amended
- (22) Paragraphs 76, 77, 78, 79, 80, 81 and 82 of the said subsection 5 (1) are repealed. s. 5 (1), pars. 76-82, repealed

4.—(1) Subsection 17 (2) of the said Act is amended by striking out "in such form as the Minister shall prescribe" in the fifth and sixth lines. s. 17 (2), amended

(2) Subsection 17 (3) of the said Act is repealed and the following substituted therefor: s. 17 (3), re-enacted

(3) Every vendor who has failed to collect tax that he is responsible to collect under this Act or the regulations shall pay a penalty, when assessed therefor, equal to the amount of tax that he 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 make an assessment under this subsection against the vendor. Penalty for non-collection of tax

(3) Section 17 of the said Act is amended by adding thereto the following subsections: s. 17, amended

(3a) Where the Minister is satisfied that a vendor's failure to collect tax that he is responsible to collect under this Act or the regulations is attributable to neglect, carelessness, wilful default or fraud, he may assess a penalty against such vendor, Penalty for wilful non-collection of tax

(a) in an amount equal to the greater of \$25 or 25 per cent of the tax that he failed to collect, where a penalty has been assessed against him under subsection (3) in respect of his 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 he failed to collect where no penalty has been assessed against him under subsection (3).

Penalty

(5a) Where, under section 16, the Minister has assessed a vendor for tax collected or a purchaser for tax payable, he may further assess such vendor or purchaser a penalty equal to the greater of \$100 or 25 per cent of the tax so assessed under section 16, but no penalty shall be assessed under this subsection unless the Minister is satisfied that the non-compliance with the Act or regulations by such vendor or purchaser that gave rise to the assessment made under section 16 was attributable to neglect, carelessness, wilful default or fraud.

s. 19,
repealed

5. Section 19 of the said Act is repealed.

s. 20,
amended

6. Section 20 of the said Act is amended by adding thereto the following subsection:

Assignment
of book
debts

(9) Where accounts receivable of a vendor are assigned under a specific or general assignment of book debts or are transferred in any other manner, any person who collects the amount owing under the accounts receivable that have been assigned or transferred, shall, whether he be any assignee, any person to whom the book debts were transferred, or agent for either of such persons, any liquidator, administrator, receiver, receiver-manager, trustee or like person, collect the tax that is payable under this Act with respect to the sales that gave rise to the accounts receivable that are being collected and that has not been collected by any vendor, and such person shall be deemed to be a vendor under this Act and to hold any tax collected under this Act in trust for Her Majesty in right of Ontario and shall remit any tax collected by him to the Treasurer at the time or times and in such manner as are prescribed by regulation.

s. 23 (5, 6),
repealed

7. Subsections 23 (5) and (6) of the said Act are repealed.

s. 24,
amended

8. Section 24 of the said Act is amended by striking out "under subsection 23 (6)" in the seventh line and inserting in lieu thereof "of appeal".

s. 38,
amended

9. Section 38 of the said Act is amended by adding thereto the following subsection:

Where
advertised
price may
include tax

(2) Notwithstanding subsection (1), the Minister may, where he 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.

s. 45 (3) (d),
re-enacted

10.—(1) Clause 45 (3) (d) of the said Act is repealed and the following substituted therefor:

(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.

(2) Clauses 45 (3) (f) and (h) of the said Act are repealed. s. 45 (3) (f, h), repealed

11.—(1) This Act, except sections 1, 2, 3, 4, 5 and 10 comes into force on the day it receives Royal Assent. Commencement

(2) Subsections 1 (1), (2) and (3), subsection 3 (1), subsections 3 (4) to (22), sections 4 and 5 and subsection 10 (2) shall be deemed to have come into force on the 14th day of May, 1982. Idem

(3) Subsections 1 (4) and (5), subsections 2 (1) and (2), subsections 3 (2) and (3) and subsection 10 (1) shall be deemed to have come into force on the 14th day of June, 1982. Idem

(4) Subsection 2 (3) shall be deemed to have come into force on the 14th day of June, 1982 with respect to the occupancy of transient accommodation during a period commencing after the 13th day of June, 1982. Idem

12. The short title of this Act is the *Retail Sales Tax Amendment Act, 1982*. Short title

