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c 27 Retail Sales Tax Amendment Act, 1983 (No. 1)

Ontario

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CHAPTER 27

An Act to amend the Retail Sales Tax Act*Assented to May 26th, 1983*

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, as amended by the Statutes of Ontario, 1982, chapter 36, section 1, is further amended by striking out “and” at the end of clause (d), by adding “and” at the end of clause (e) and by adding thereto the following clause:

s. 1, par. 4,
amended

- (f) the tax payable by the purchaser under subsection 2 (1) of the *Tobacco Tax Act*,

R.S.O. 1980,
c. 502

(2) Paragraph 14 of the said section 1 is repealed.

s. 1, par. 14,
repealed

2.—(1) Subsection 2 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 36, section 2, is repealed and the following substituted therefor:

s. 2 (2),
re-enacted

(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,

of liquor,
beer, wine

- (a) 10 per cent of the fair value thereof where the liquor, beer or wine is sold under the authority of a licence issued by the Liquor Licence Board under section 4 of the *Liquor Licence Act*; or

R.S.O. 1980,
c. 244

- (b) 12 per cent of the fair value thereof where the liquor, beer or wine is sold by or under the authority of the Liquor Control Board of Ontario under the *Liquor Control Act*.

R.S.O. 1980,
c. 243

(2) Subsection 2 (4) of the said Act is amended by striking out “\$3.50” in the fourth line and inserting in lieu thereof “\$4.00”.

s. 2 (4),
amended

s. 2 (5),
amended

(3) Subsection 2 (5) of the said Act is amended by adding at the end thereof “or at the time of the payment of a price of admission, or the promotional distribution of an admission”.

s. 2 (9),
amended

(4) Subsection 2 (9) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 38, section 1, is further amended by inserting after “Act” in the seventh line “but only one application may be made with respect to any amount paid as tax under this Act”.

s. 3,
amended

3. Section 3 of the said Act is amended by adding thereto the following subsection:

Change in
name or
nature of
business

(1a) Where a permit has been issued to a vendor under subsection (1) and the vendor changes the name or nature of his business he shall notify the Minister of the change forthwith and the Minister may issue a new permit, and, where the Minister issues a new permit, the vendor shall return his original permit to the Minister forthwith for cancellation.

s. 5 (1),
par. 2(c),
amended

4.—(1) Clause (c) of paragraph 2 of subsection 5 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 36, section 3, is amended by striking out “or where a rebate of the tax paid on those repairs or repair parts is provided under this Act or the regulations” in the fourth, fifth, sixth and seventh lines.

s. 5 (1),
par. 14,
re-enacted

(2) Paragraph 14 of the said subsection 5 (1), as re-enacted by the Statutes of Ontario, 1982, chapter 36, section 3, is repealed and the following substituted therefor:

R.S.O. 1980,
c. 198

14. vehicles that are required to be licensed under the *Highway Traffic Act* and the energy to operate which is either,

(a) exclusively electrical energy or energy derived from the internal combustion of ethanol, methanol, natural gas or manufactured gas, or

(b) energy described in clause (a), where the vehicle can also operate exclusively on energy derived from a fuel described under the *Fuel Tax Act, 1981* or the *Gasoline Tax Act*,

1981, c. 59;
R.S.O. 1980,
c. 186

but not any vehicle the energy to operate which is a mix of a form of energy described in clause (a) and energy derived from a fuel described under the *Fuel Tax Act, 1981* or the *Gasoline Tax Act*.

(3) Paragraph 14a of the said subsection 5 (1), as enacted by the Statutes of Ontario, 1981, chapter 38, section 2, is amended by adding at the end thereof “including the labour provided to install that conversion kit”.

s. 5 (1),
par. 14a,
amended

(4) Paragraph 20 of the said subsection 5 (1) is amended by striking out “as defined by the Minister”.

s. 5 (1),
par. 20,
amended

(5) Paragraph 27 of the said subsection 5 (1), as re-enacted by the Statutes of Ontario, 1982, chapter 36, section 3, is amended by adding at the end thereof “and repair parts for such vehicles”.

s. 5 (1),
par. 27,
amended

(6) Paragraph 36 of the said subsection 5 (1) is amended by adding at the end thereof “and repair parts for such appliances or equipment”.

s. 5 (1),
par. 36,
amended

(7) Paragraph 37 of the said subsection 5 (1) is amended by adding at the end thereof “and repair parts therefor”.

s. 5 (1),
par. 37,
amended

(8) Paragraph 38 of the said subsection 5 (1), as re-enacted by the Statutes of Ontario, 1982, chapter 36, section 3, is amended by adding at the end thereof “and accessories specifically designed for such equipment and repair parts for such equipment”.

s. 5 (1),
par. 38,
amended

(9) Paragraph 39 of the said subsection 5 (1) is amended by adding at the end thereof “and accessories specifically designed for hearing aids and repair parts for hearing aids”.

s. 5 (1),
par. 39,
amended

(10) Paragraph 40 of the said subsection 5 (1) is amended by adding at the end thereof “and repair parts therefor”.

s. 5 (1),
par. 40,
amended

(11) Paragraph 41 of the said subsection 5 (1) is amended by adding at the end thereof “and repair parts for such appliances”.

s. 5 (1),
par. 41,
amended

(12) Paragraph 43 of the said subsection 5 (1) is amended,

s. 5 (1),
par. 43,
amended

(a) by striking out “dies, jigs, product-holding fixtures, moulds and patterns for any of them, tools attached to production machinery, and” in the first, second and third lines; and

(b) by striking out “all” in the third line and inserting in lieu thereof “both”.

(13) Paragraph 44 of the said subsection 5 (1) is repealed.

s. 5 (1),
par. 44,
repealed

s. 5 (1),
par. 45,
re-enacted

(14) Paragraph 45 of the said subsection 5 (1), as amended by the Statutes of Ontario, 1982, chapter 36, section 3, is repealed and the following substituted therefor:

45. machinery, equipment or processing materials purchased for the use of a manufacturer, or for the use of a producer, to be used directly in the manufacture or production of tangible personal property or directly in, and exclusively for, the research or development by such manufacturer or producer of either,
- (a) goods for his own manufacture or production or for the manufacture or production of others, or
 - (b) manufacturing or production processes for his use or the use of others,

R.S.C. 1970,
c. E-13

if such machinery, equipment or processing materials are described in Part XIII of Schedule III to the *Excise Tax Act* (Canada), but the exemption conferred by this paragraph does not apply to any type or class of machinery or equipment prescribed by the Minister to be excluded from this paragraph, or to any machinery or equipment used in any manner, process, industry, enterprise or by any person prescribed by the Minister as not entitled to the exemption conferred by this paragraph.

s. 5 (1),
par. 46,
amended

(15) Paragraph 46 of the said subsection 5 (1) is amended by striking out “or use” in the fourth line.

s. 5 (1),
amended

(16) The said subsection 5 (1), as amended by the Statutes of Ontario, 1981, chapter 38, section 2 and 1982, chapter 36, section 3, is further amended by adding thereto the following paragraph:

51. publications, as defined by the Minister, purchased by a school, school board or university or by a public library administered under the *Public Libraries Act*.

R.S.O. 1980,
c. 414

s. 5 (1),
par. 59,
amended

(17) Paragraph 59 of the said subsection 5 (1) is amended by striking out “as defined by the Minister” in the first line.

s. 5 (1),
amended

(18) The said subsection 5 (1), as amended by the Statutes of Ontario, 1981, chapter 38, section 2 and 1982, chapter 36, section 3, is further amended by adding thereto the following paragraph:

61a. Maple Leaf Gold Coins struck by the Royal Canadian Mint and such other gold coins as are prescribed by regulation.

(19) Paragraph 64 of the said subsection 5 (1) is repealed.

s. 5 (1),
par. 64,
repealed

(20) Paragraph 70 of the said subsection 5 (1) is repealed and the following substituted therefor:

s. 5 (1),
par. 70,
re-enacted

70. highway truck tractors having a gross vehicle mass rating, as defined by the Minister, of 11,778 kilograms or more, trucks designed for the carriage of goods or freight having a gross vehicle mass rating of 11,778 kilograms or more and truck trailers, tractor trailers and semi-trailers designed for the carriage of goods or freight having a gross vehicle mass rating of 11,778 kilograms or more, but the exemption conferred by this paragraph does not apply to trucks, truck tractors, truck trailers, tractor trailers or semi-trailers prescribed by the Minister to be excluded from this paragraph or used in any manner, process, industry, enterprise or by any person or class of persons prescribed by the Minister as not entitled to the exemption conferred by this paragraph.

(21) The said subsection 5 (1), as amended by the Statutes of Ontario, 1981, chapter 38, section 2 and 1982, chapter 36, section 3, is further amended by adding thereto the following paragraphs:

s. 5 (1),
amended

76. furniture, as defined by the Minister, including curtains, drapes and blinds, as defined by the Minister, and floor coverings, as defined by the Minister, that are purchased before the 9th day of August, 1983 for private residential use, if delivery thereof is taken by the purchaser on or after the 11th day of May, 1983, and before the 8th day of November, 1983, but only when such furniture, curtains, drapes, blinds and floor coverings have never previously been sold, leased or rented by a dealer to a customer at a retail sale anywhere;
77. major home appliances that are manufactured for private household use and that are,
- (a) refrigerators, freezers, dishwashers or kitchen ranges, including ovens and cooking tops sold separately for installation as a kitchen range, or

(b) washers or dryers for the laundering of clothes,

but only when such appliances have never previously been sold, leased or rented by a dealer to a customer at a retail sale anywhere and are,

(c) delivered to the purchaser thereof on or after the 11th day of May, 1983, and before the 9th day of August, 1983, and

(d) not appliances of a class or kind of appliance prescribed by the Minister to be excluded from the exemption conferred by this paragraph.

s. 11,
amended

5. Section 11 of the said Act is amended by striking out “\$25 and no more than \$1,000” in the eighth line and inserting in lieu thereof “\$50 and no more than \$2,000”.

s. 13 (2),
repealed

6. Subsection 13 (2) of the said Act is repealed.

s. 16a,
enacted

7. The said Act is amended by adding thereto the following section:

Penalty
assessment

16a.—(1) The Minister may assess any penalty payable by a vendor under subsection 30 (1) or (2) or any tax owing by a person dealing with a non-resident contractor who fails to comply with subsection 37 (4).

Notice of
assessment
under subs.
(1)

(2) Where the Minister has made an assessment under subsection (1), he shall serve a notice of assessment on the vendor or the person dealing with the non-resident contractor by pre-paid mail to his last known address or by personal service, requiring that the amount of the assessment made under subsection (1) be remitted to the Treasurer or otherwise accounted for.

Assessment
valid and
binding

(3) An assessment made under this section shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

Payment

(4) Every person assessed under this section shall, within thirty days of the service of the notice of assessment, remit to the Treasurer the amount assessed.

s. 17 (5),
amended

8. Subsection 17 (5) of the said Act is amended,

(a) **by striking out “when assessed therefor, pay a penalty” in the seventh and eighth lines and inserting in lieu thereof “pay a penalty when assessed therefor”;**

- (b) by striking out “\$25” in subclause 17 (5) (a) (i) and inserting in lieu thereof “\$50”;
- (c) by striking out “unpaid” in the first line of subclause 17 (5) (a) (ii); and
- (d) by striking out “\$500” in clause 17 (5) (b) and inserting in lieu thereof “\$2,000”.

9.—(1) Subsection 18 (2) of the said Act is amended by striking out “and, if the vendor or the purchaser is a partnership or a corporation, the notice of assessment may be served on a partner or the president, manager, secretary or other director, agent or representative thereof” in the seventh, eighth, ninth and tenth lines. s. 18 (2),
amended

(2) Section 18 of the said Act is amended by adding thereto the following subsections: s. 18,
amended

(3) Where, in the opinion of the Minister, a vendor or purchaser may attempt to avoid payment of a penalty that the Minister has assessed under subsection 17 (3), (3a), (4), (5) or (5a), the Minister may, notwithstanding subsection 17 (8), serve the notice of assessment on the vendor or purchaser, as the case may be, and the Minister may direct that all taxes as set out therein shall be paid forthwith. Idem

(4) Where, in the opinion of the Minister, a vendor or a person dealing with a non-resident contractor may attempt to avoid payment of a penalty that the Minister has assessed under subsection 16a (1), he may, notwithstanding subsection 16a (4), serve the notice of assessment on the vendor, or person dealing with a non-resident contractor, as the case may be, and direct that all taxes as set out therein shall be paid forthwith. Idem

(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. Service on
partnership
or
corporation

10.—(1) Clause 30 (1) (a) of the said Act is amended by striking out “5 per cent” in the first line and inserting in lieu thereof “10 per cent”. s. 30 (1) (a),
amended

(2) Clause 30 (1) (b) of the said Act is amended by striking out “\$500” in the first line and inserting in lieu thereof “\$1,000”. s. 30 (1) (b),
amended

s. 30 (2),
amended

(3) Subsection 30 (2) of the said Act is amended by striking out “\$20 or more than \$100” in the fifth and sixth lines and inserting in lieu thereof “\$50 or more than \$200”.

s. 30 (3),
amended

(4) Subsection 30 (3) of the said Act is amended by striking out “\$25” in the twenty-third line and inserting in lieu thereof “\$100”.

s. 30 (4, 5),
repealed

(5) Subsections 30 (4) and (5) of the said Act are repealed.

s. 32 (1),
amended

11.—(1) Subsection 32 (1) of the said Act is amended by inserting after “(5)” in the seventh line “subsection 16a (2) or section 17”.

s. 32 (2),
amended

(2) Subsection 32 (2) of the said Act is amended by inserting after “(5)” in the second line “subsection 16a (2) or section 17”.

s. 34,
amended

12. Section 34 of the said Act is amended by adding thereto the following subsections:

Idem

(1a) Without limiting the generality of subsection (1), where the Minister has knowledge or suspects that a bank, credit union, trust company or other similar person, in this section referred to as “the institution”, is about to advance moneys to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by, a person liable to make a payment or remittance under this Act, who is indebted to the institution and who has given security to the institution in respect of the indebtedness, he may, by registered letter or by letter served personally, require the institution to pay to the Treasurer on account of the liability of the person liable to make a payment or remittance under this Act the moneys that would otherwise be so advanced or paid, and the requirement shall apply to all moneys that would otherwise be so advanced or paid in the ninety days following the receipt of the registered letter or letter served personally.

Idem

(3a) Every institution that fails to comply with a requirement under subsection (1a) is liable to pay to Her Majesty in right of Ontario an amount equal to the lesser of,

- (a) the aggregate of the moneys advanced or paid; and
- (b) the amount that it was required under subsection (1a) to pay to the Treasurer.

s. 35 (1),
amended

13. Subsection 35 (1) of the said Act is amended by inserting after “Act” in the second line “or upon default of the pay-

ment of tax by a person dealing with a non-resident contractor who fails to comply with subsection 37 (4)".

14.—(1) Subsection 39 (1) of the said Act is amended, s. 39 (1),
amended

- (a) by striking out "or registered consumer" in the first line; and
- (b) by striking out "\$25" in the fourth line and inserting in lieu thereof "\$50".

(2) Subsection 39 (2) of the said Act is amended by striking out "\$25" in the second line and inserting in lieu thereof "\$50". s. 39 (2),
amended

15.—(1) Subsection 41 (1) of the said Act is repealed and the following substituted therefor: s. 41 (1),
re-enacted

(1) Subject to subsection (2), any person who contravenes any provision of 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 \$2,000. General
penalty

(2) Subsection 41 (2) of the said Act is amended by striking out "\$10 and not more than \$1,000" in the fourth and fifth lines and inserting in lieu thereof "\$50 and not more than \$2,000". s. 41 (2),
amended

16.—(1) Clause 45 (2) (b) of the said Act is amended by adding at the end thereof "or the regulations". s. 45 (2) (b),
amended

(2) Clause 45 (2) (g) of the said Act is repealed and the following substituted therefor: s. 45 (2) (g),
re-enacted

- (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.

(3) Subsection 45 (2) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 38, section 4, is further amended by adding thereto the following clauses: s. 45 (2),
amended

- (j) prescribing gold coins to which the exemption contained in paragraph 61a of subsection 5 (1) applies;
- (k) 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 7 (2).

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

(4) Clause 45 (3) (g) of the said Act is repealed and the following substituted therefor:

- (g) prescribing information to be contained in an application for a vendor's permit to be issued under section 3 and attaching additional conditions to the use of any such permit.

s. 45 (3) (i),
amended

(5) Clause 45 (3) (i) of the said Act is amended by striking out "after the 22nd day of April, 1980" in the second and third lines.

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

(6) Clause 45 (3) (j) of the said Act is repealed and the following substituted therefor:

- (j) providing for the rebate of the tax paid on the purchase of a motor vehicle that is, within thirty days of the date of sale, adapted or converted to permit it to operate in a manner described in clause (a) or (b) of paragraph 14 of subsection 5 (1), and prescribing the basis on which such rebate shall be calculated and the conditions under which it shall be made.

Commence-
ment

17.—(1) This Act, except sections 1, 2, 3, 4, 6, 7, 9, 11, 13 and 16, comes into force on the day it receives Royal Assent.

Idem

(2) Section 1, subsections 2 (2), (3) and (4), and sections 3, 4, 6, 7, 9, 11, 13 and 16 shall be deemed to have come into force on the 11th day of May, 1983.

Idem

(3) Subsection 2 (1) comes into force on the 24th day of May, 1983.

Short title

18. The short title of this Act is the *Retail Sales Tax Amendment Act, 1983*.