

1985

## c 22 Tobacco Tax Amendment Act, 1985

Ontario

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## CHAPTER 22

**An Act to amend the Tobacco Tax Act***Assented to December 31st, 1985*

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

**1. Clauses 1 (ga) and (gb) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1981, chapter 4, section 1, are repealed.**

**2.—(1) Subsection 2 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 17, section 1 and amended by the Statutes of Ontario, 1983, chapter 25, section 1, is repealed and the following substituted therefor:**

(1) Every consumer shall pay to the Treasurer a tax at the rate of, Tax on consumers of tobacco

- (a) 2.7 cents on every cigarette purchased by the consumer;
- (b) 1.5 cents per gram on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by the consumer; and
- (c) 45 per cent of the price at retail of every cigar that is purchased by the consumer, provided that where the application of such rate of tax produces a fraction of a cent, the fraction shall be counted as one full cent.

**(2) Subsection 2 (1a) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 4, section 2, is repealed.**

**3.—(1) Subsection 10 (1) of the said Act is repealed and the following substituted therefor:**

(1) The Minister may, at any time the Minister considers reasonable, assess or reassess, Assessment

- (a) any tax that any person, as agent of the Minister, has collected and has failed to remit;
- (b) any tax, interest or penalty payable by any person under this Act or the regulations; and
- (c) any amount deemed to be tax under section 27.

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

Disallowance  
of refund

(2a) Where a person has, in accordance with this Act and the regulations, applied for a refund under this Act or the regulations, and the claim is in whole or in part refused, the Minister shall cause to be issued a statement of disallowance and the statement shall specify the amount of the disallowance and the reasons therefor and the statement of disallowance shall be served in the same manner as a notice of assessment under subsection (3).

**4.—(1) Subsection 12 (1) of the said Act is repealed and the following substituted therefor:**

Notice of  
objection

(1) Where a person objects to an assessment of tax, interest or penalty or the disallowance of a refund under section 10, the person may, within 180 days from the day of mailing or delivery by personal service of the notice of assessment or statement of disallowance, serve on the Minister a notice of objection in duplicate in the form prescribed by the regulations setting out the reasons for the objection and all relevant facts.

**(2) Subsection 12 (3) of the said Act is repealed and the following substituted therefor:**

Minister to  
reconsider

(3) Upon receipt of a notice of objection, the Minister shall with all due dispatch reconsider the assessment or disallowance objected to and vacate, confirm or vary the assessment or disallowance or reassess or serve a fresh statement of disallowance, and the Minister shall thereupon notify the person making the objection of his or her action by registered mail.

**5.—(1) Subsection 13 (1) of the said Act is amended by inserting after “assessment” in the fourth line “or statement of disallowance”.**

**(2) Subsection 13 (5) of the said Act is repealed and the following substituted therefor:**

(5) The Minister shall with all due dispatch serve on the appellant and file with the Supreme Court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such allegations of fact and of such statutory provisions and reasons as the Minister intends to rely on, and where the Minister fails to serve the reply within 180 days from the date of service upon the Minister of the notice under subsection (2), the appellant may, upon twenty-one days notice to the Minister, apply to a judge of the Supreme Court for an order requiring the reply to be served within such time as the judge shall order, and the judge may, if the judge considers it proper in the circumstances, also order that, upon the failure of the Minister to serve the reply in the time specified by the order, the assessment or notice of disallowance with respect to which the appeal is made shall be vacated and any tax pursuant to such assessment shall be repaid to the appellant or the refund disallowed be paid to the appellant, but nothing in this section revives an appeal that is void or affects a statement of disallowance or assessment that has become valid and binding.

Reply to  
notice of  
appeal

**(3) Subsection 13 (7) of the said Act is repealed and the following substituted therefor:**

(7) The court may dispose of the appeal by such order as it considers just and the Minister shall, subject to the final decision of any court to which the order is appealed, vacate or vary, where necessary, the assessment or statement of disallowance so as to carry out the final order of the court.

Disposition  
of appeal

**(4) Subsection 13 (10) of the said Act is amended by inserting after "assessment" in the first line "or notice of disallowance".**

**(5) Subsection 13 (11) of the said Act is repealed and the following substituted therefor:**

(11) The time within which a notice of objection or a notice of appeal is to be served may be extended by the Minister if application for extension is made,

Extension  
of time

- (a) in respect of a notice of objection under subsection 12 (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 12 (1); or

- (b) in respect of a notice of appeal, before the expiration of the time allowed under subsection (1) of this section for the service of the notice of appeal.

**6.—(1) Subsection 14 (3) of the said Act is repealed.**

**(2) Subsection 14 (6) of the said Act is amended by striking out “in respect of which the tax imposed by this Act has not been paid” in the fourth and fifth lines.**

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

Security  
for tax

(1a) Where the Minister considers it advisable to do so, the Minister may accept security for the payment of taxes in any form the Minister considers appropriate.

**8. Clauses 28 (2) (e) and (f) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 4, section 6, are repealed.**

Commence-  
ment

**9.—(1) This Act, except subsections 4 (1) and 5 (5), comes into force on the day following the day it receives Royal Assent.**

Idem

**(2) Subsections 4 (1) and 5 (5) shall be deemed to have come into force on the 15th day of February, 1984.**

Short title

**10. The short title of this Act is the *Tobacco Tax Amendment Act, 1985.***