

1985

## c 24 Gasoline Tax Amendment Act, 1985

Ontario

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## CHAPTER 24

**An Act to amend the Gasoline 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.** Clause 1 (ja) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1981, chapter 11, section 1, is repealed.

**2.** Subsections 2 (1), (2) and (2a) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 11, section 2, are repealed and the following substituted therefor:

(1) Every purchaser of gasoline shall pay to the Treasurer a tax at the rate of 8.3 cents per litre on all gasoline purchased by, or delivered to, the purchaser. Tax payable by purchaser of gasoline

(2) Every purchaser of aviation fuel shall pay to the Treasurer a tax at the rate of 1.88 cents per litre on all aviation fuel purchased by, or delivered to, the purchaser. Tax on aviation fuel

**3.—(1)** Subsection 11 (1) of the said Act is amended by adding at the end thereof “and serve notice of the assessment on the person”.

(2) Section 11 of the said Act is amended by adding thereto the following subsection:

(1a) Where a person has, in accordance with this Act and the regulations, applied for or taken a refund and the claim is in whole or in part refused, the Minister shall cause to be served on the person a statement of disallowance in the prescribed form and the statement shall specify the amount of the refund disallowed and the reasons therefor. Disallowance of refund

(3) Subsections 11 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) A notice of assessment under subsection (1) or a statement of disallowance under subsection (1a) may be served by Remittance of tax assessed or refund disallowed

sending the notice or statement by prepaid mail to the person against whom the assessment is made or whose claim is refused, as the case may be, at the person's last known address or by serving such notice or statement personally and the person who was assessed or whose refund was refused shall, within thirty days of the mailing or personal service of the notice of assessment or statement of disallowance, transmit the amount of the assessment or of the refund refused to the Treasurer.

Remittance  
forthwith

(3) Where the Minister has assessed tax under subsection (1) or has disallowed a refund under subsection (1a), the notice of assessment or statement of disallowance referred to in subsection (2) may provide that the amount owing is payable forthwith.

**(4) Subsections 11 (9) and (10) of the said Act are repealed and the following substituted therefor:**

Assessment  
valid and  
binding

(9) An assessment or statement of disallowance, subject to being varied or vacated on an objection or appeal and subject to a reassessment or the service of a fresh statement of disallowance, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

Idem

(10) The amount of any assessment or disallowance of a refund is payable within the time required by the notice of assessment or statement of disallowance whether or not an objection or appeal from the assessment or statement of disallowance is outstanding.

**4.—(1) Subsection 13 (1) of the said Act is amended,**

(a) by inserting after “assessment” in the first line “or a statement of disallowance”; and

(b) by inserting after “assessment” in the fourth line “or statement of disallowance”.

(2) The said subsection 13 (1) is further amended by striking out “ninety” in the second line and inserting in lieu thereof “180”.

(3) Subsection 13 (3) of the said Act is amended by inserting after “assessment” in the second line and in the third line “or statement of disallowance”.

**5.—(1) Subsection 14 (1) of the said Act is amended by inserting after “assessment” in the fourth line “or statement of disallowance”.**

**(2) Subsection 14 (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 14 (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 14 (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 13 (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 13 (1); or

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

**6. Subsection 16 (4) of the said Act is repealed.**

**7. Section 18 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. Subsection 27 (4) of the said Act is amended by striking out “two” in the third line and in the fifth line and inserting in lieu thereof in each instance “three”.**

**9. Section 30 of the said Act is amended by adding thereto the following subsection:**

Communica-  
tion  
with Ministry  
of Treasury  
and  
Economics

(7) Notwithstanding anything in this section, the Minister may communicate or allow to be communicated to an official of the Ministry of Treasury and Economics, solely for the purpose of evaluating and formulating tax policy, information obtained under this Act.

**10.—(1) Clauses 32 (2) (d), (e) and (f) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 11, section 3, are repealed.**

(2) Subsection 32 (3) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 11, section 3, is amended by striking out “other than a regulation prescribing the taxable price per litre of any grade or type of gasoline” in the first and second lines.

Commence-  
ment

**11.—(1) This Act, except subsections 4 (2) and 5 (4), comes into force on the day following the day it receives Royal Assent.**

(2) Subsections 4 (2) and 5 (4) shall be deemed to have come <sup>Idem</sup> into force on the 15th day of February, 1984.

**12.** The short title of this Act is the *Gasoline Tax Amend-* <sup>Short title</sup>  
*ment Act, 1985.*

