

1980

c 186 Gasoline Tax Act

Ontario

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CHAPTER 186

Gasoline Tax Act

1. In this Act,

Interpre-
tation

- (a) “assessment” includes a reassessment;
- (b) “aviation fuel” means any gas or liquid that is sold to be used or is used to create power in an aircraft and any product that is designated to be aviation fuel by the regulations;
- (c) “collector” means a person appointed in writing by the Minister to be a collector of tax under this Act;
- (d) “gasoline” means any gas or liquid, other than those described in subclause (iv), that may be used for the purpose of generating power by means of internal combustion and includes any substance, other than those described in subclause (iv), that is added thereto, but does not include the following products,
 - (i) aviation fuel, except when used or intended to be used to generate power by means of internal combustion in a vehicle other than an aircraft,
 - (ii) the products commonly known as diesel fuel, fuel oil, coal oil or kerosene, except when any such product is mixed or combined with gasoline,
 - (iii) products excluded from this Act by the regulations, except when any such product is mixed or combined with gasoline, or
 - (iv) ethyl alcohol, methyl alcohol, natural gas, manufactured gas or any product commonly known as liquefied petroleum gas;
- (e) “importer” means any person, other than a collector, who receives in Ontario gasoline or aviation fuel from a person outside Ontario who is not a collector, or who receives outside Ontario gasoline or aviation

fuel for the purpose of resale in Ontario or for his own use or the use of others at his expense in Ontario;

- (f) "Minister" means the Minister of Revenue;
- (g) "prescribed" means prescribed by the regulations made under this Act;
- (h) "purchaser" means any person purchasing or receiving delivery in Ontario of gasoline or aviation fuel for his own use or for the use of others at his expense, and includes an importer who brings into Ontario gasoline or aviation fuel for his own use or the use of others at his expense;
- (i) "regulations" means the regulations made under this Act;
- (j) "retailer" means a person who sells gasoline or aviation fuel for use by a purchaser and not for resale;
- (k) "Treasurer" means the Treasurer of Ontario and Minister of Economics;
- (l) "wholesaler" means a person who sells gasoline or aviation fuel for the purpose of resale. 1973, c. 99, s. 1; 1975, c. 11, s. 1; 1980, c. 24, s. 1.

Tax payable
by purchaser
of gasoline

2.—(1) Every purchaser of gasoline shall pay to the Treasurer a tax at the rate of 4.6 cents per litre on all gasoline purchased, or delivery of which is received, by him.

Tax on
aviation
fuel

(2) Every purchaser of aviation fuel shall pay to the Treasurer a tax at the rate of 1.32 cents per litre on all aviation fuel purchased, or delivery of which is received, by him. 1979, c. 16, s. 1.

Tax to be
paid at time
of sale

(3) A purchaser, other than an importer, shall pay the tax imposed by this Act at the time of the purchase or delivery, as the case may be. 1973, c. 99, s. 2 (3).

Amounts
in lieu
of tax

(4) Where any person selling gasoline or aviation fuel receives any payment made as or in lieu of the tax payable under this Act, such payment shall be dealt with and accounted for as tax under this Act, and any person who fails to deal with and account for such payment in accordance with this Act and the regulations is liable to the same penalties and fines, and is guilty of the same offences, as would apply if the payment were the tax payable under this Act,

and the Minister may collect and receive such payment by the same remedies and procedures as are provided by this Act or the regulations for the collection and enforcement of the tax payable under this Act. 1978, c. 77, s. 1 (2).

3.—(1) No retailer in Ontario shall sell or deliver to a purchaser any gasoline or aviation fuel without collecting from the purchaser the tax imposed by this Act, and for the purpose of collecting such tax every retailer is an agent of the Minister. Retailer to collect tax from purchaser

(2) Every retailer who is not also a collector shall pay over the tax collected by him to a collector at the time and in the manner required by this Act and the regulations. 1973, c. 99, s. 3. Retailer to pay tax to collector

4.—(1) Every importer shall remit to the Treasurer, at the time and in the manner prescribed, the tax payable by him in respect of the gasoline or aviation fuel imported by him into Ontario for his own use or the use of others at his expense. Importers to remit tax

(2) Every importer who sells in Ontario gasoline or aviation fuel shall collect and remit to the Treasurer, at the time and in the manner prescribed, the tax imposed by this Act in respect of such gasoline or aviation fuel, and for the purpose of collecting such tax every importer is an agent of the Minister. 1973, c. 99, s. 4. Idem

5. Every purchaser is liable for the tax imposed by this Act until he has paid it. 1973, c. 99, s. 5. Purchaser liable for tax

6.—(1) The Minister may appoint any person who is in the business of manufacturing gasoline or aviation fuel or of selling gasoline or aviation fuel for resale in Ontario to be a collector under this Act. Appointment of collector

(2) No person shall, unless he is a collector, a wholesaler or an importer, sell in Ontario for resale or deliver in Ontario for resale any gasoline or aviation fuel. Only collector, wholesaler or importer may sell in Ontario for resale

(3) Every collector shall at the times and in the manner prescribed collect from any wholesaler, retailer or purchaser to whom the collector sells gasoline or aviation fuel the tax collectable and payable under this Act, and for that purpose every collector is an agent of the Minister for the collection of the tax imposed by this Act and for the remittance thereof to the Treasurer. Collector to collect tax

Idem (4) No collector shall collect the tax imposed by this Act on the sale by him of gasoline or aviation fuel to a collector who is not a purchaser in respect of such gasoline or aviation fuel.

Idem (5) No person appointed a collector under subsection (1) shall thus be made ineligible as a member of the Assembly. 1973, c. 99, s. 6.

Security (6) The Minister may require that any person charged with collection of the tax imposed by this Act shall furnish security in such form and amount and for such length of time as the Minister considers necessary. 1979, c. 16, s. 2.

Termination of collector's appointment 7.—(1) The Minister may suspend or cancel the appointment of any person appointed to be a collector where,

(a) the person contravenes any of the provisions of this Act or the regulations; or

(b) the person has not delivered or sold, for resale in Ontario, any gasoline or aviation fuel for a period of three months,

but before a suspension or cancellation is made such person shall be afforded an opportunity to appear before the Minister to show cause why the appointment as a collector should not be suspended or cancelled, as the case may be.

Idem (2) Notwithstanding subsection (1), where a collector has failed to remit the tax that he has collected or any tax that was payable by him under this Act at the time and in the manner demanded of him, the Minister may, by notice in writing to the collector and without a hearing, suspend forthwith the appointment of the collector, and the notice shall state the failure of the collector for which his appointment is suspended, and the Minister shall, within fifteen days of the service of such notice of suspension, hold a hearing to determine whether the suspension of the collector's appointment should be rescinded or whether the collector's appointment should be cancelled.

Notice terminating collector's appointment (3) Notice of suspension or cancellation of the appointment of a collector is properly served if served either personally or by registered mail sent to the latest known address of the collector. 1973, c. 99, s. 7.

Returns 8.—(1) Every collector shall deliver to the Minister, without notice or demand, a return of tax collectable by him at the time and in the manner prescribed in the regulations.

(2) Every return shall be verified by a certificate of the collector and, if the collector is not an individual, of any one of its officers or its resident manager or representative in Ontario, certifying that the financial and other statements of information included therein or attached thereto are in agreement with the books of the collector and exhibit truly, correctly and completely all information for the period covered by the return. Idem

(3) Every collector who fails to comply with subsection (1) shall pay a penalty of \$200. Failure to comply

(4) Every collector who fails to complete the information required in the return to be delivered to the Minister under subsection (1) is guilty of an offence and on conviction is liable to a fine of \$200. 1973, c. 99, s. 8. Incomplete returns

9. Every collector shall remit with the return required by section 8 the amount of the tax payable by him or collectable by him, as the case may be, as shown therein. 1973, c. 99, s. 9. Transmission of tax

10.—(1) Every person who collects any tax under this Act shall be deemed to hold such tax in trust for Her Majesty the Queen in right of Ontario and shall remit to the Treasurer all such tax at such times and in such manner as is required by this Act and the regulations. Tax moneys are trust moneys

(2) Every tax that is payable under this Act by a collector or importer in respect of gasoline or aviation fuel of which he is the purchaser is deemed to be trust moneys in the hands of the collector or importer, as the case may be, held by him in trust for Her Majesty the Queen in right of Ontario, and the collector or importer shall remit to the Treasurer all such tax at the times and in the manner required by this Act and the regulations. 1973, c. 99, s. 10. Idem

11.—(1) Where any person fails to make a return or remittance as required under this Act or the regulations or if his returns are not substantiated by his records, the Minister may make an assessment of the tax collectable by such person or of the tax, interest or penalty payable by such person, as the case may be, for which he has not accounted. Assessment

(2) Where the Minister has made an assessment under subsection (1), he shall send by mail or by registered mail or deliver by personal service a notice of assessment to the person so assessed, and the amount of the assessment shall Notice of assessment

be remitted to the Treasurer by the person so assessed within thirty days from the date of mailing or delivery of the notice of assessment.

Notice of
assessment
under subs. (1)

(3) Where the Minister has made an assessment under subsection (1), the notice of assessment may provide that the amount owing is payable forthwith.

Assessment
from time
to time

(4) The Minister may, at any time he considers reasonable, assess or reassess any tax collectable or any tax, interest or penalty payable by any person under this Act.

Assessment
on inspection

(5) Where it appears from an inspection, audit or examination of the books of account, records or documents of any collector, wholesaler, retailer or purchaser that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax collectable or payable in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount of the tax collectable or of the tax, interest or penalty payable, as the case may be.

Notice of
assessment
under
subs. (4) or (5)

(6) The Minister shall send by mail or by registered mail or deliver by personal service a notice of the assessment made under subsection (4) or (5) to the person so assessed, at his latest known address, or where the person has more than one address, one of which is in Ontario, the notice shall be sent to his address in Ontario, and the notice may provide that the amount owing is payable forthwith.

Continuation
of liability
for tax

(7) Liability for tax imposed by this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

Minister
not bound
by returns

(8) The Minister is not bound by a return or information delivered by or on behalf of any person under this Act and may, notwithstanding any return or information delivered or if no return or information has been delivered, assess the tax payable under this Act.

Assessment
valid and
binding

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

(10) The amount of any assessment is payable within the time required by the notice of assessment whether or not an objection or appeal from the assessment is made or taken. 1973, c. 99, s. 11. Idem

12.—(1) Any amount payable or to be remitted to the Treasurer under this Act bears interest, at the rate prescribed by the regulations, from the day on which the amount should have been paid or remitted to the Treasurer to the day of payment. Unpaid taxes to bear interest

(2) Any payment to the Treasurer under this Act, other than a payment of penalties and other than fines imposed for offences, shall first be applied to any interest payable by the person making the payment or on account of whom the payment is made. 1973, c. 99, s. 12. Payments applied first to interest

13.—(1) Where a person objects to an assessment made under section 11, he may, within ninety days from the day of mailing or delivery by personal service of the notice of assessment, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. Notice of objection

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. Service

(3) Upon receipt of a notice of objection, the Minister shall with all due dispatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the person who has made the objection of his action by registered mail. 1973, c. 99, s. 13. Reconsideration

14.—(1) After the Minister has given the notification required by subsection 13 (3), a person who has served notice of objection under section 13 may appeal to the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day notice has been mailed to such person under subsection 13 (3). 1973, c. 99, s. 14 (1), *revised*. Appeal

(2) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or with the local registrar of the Supreme Court for the county or district in which the person appealing resides or has his place of business. Appeal, how instituted

Service

(3) A notice of appeal shall be served on the Minister by being sent by registered mail addressed to the Minister.

Content of
notice of
appeal

(4) The person appealing shall set out in the notice of appeal a statement of the allegations of fact and the statutory provisions and reasons that he intends to submit in supporting his appeal.

Reply to
notice of
appeal

(5) After the service on him of a notice of appeal under this section, the Minister shall with all due dispatch serve on the person appealing and file in the Supreme Court where the notice of appeal was filed a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he intends to rely on.

Matter
deemed
action

(6) Upon the filing of the material referred to in subsection (5), the matter shall be deemed to be an action in the court.

Disposition
of appeal

(7) The court may dispose of the appeal by,

(a) dismissing it;

(b) allowing it; or

(c) allowing it, and

(i) vacating the assessment,

(ii) varying the assessment,

(iii) restoring the original assessment, or

(iv) referring the assessment back to the Minister for reconsideration and reassessment.

Idem

(8) The court may, in delivering judgment disposing of an appeal, order payment or refund of tax by the appellant or by the Treasurer, as the case may be, and may make such order as to costs as is considered proper.

Procedure

(9) The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter that is deemed to be an action under subsection (6), and every judgment and order given or made in every such action may be enforced in the

same manner and by the like process as a judgment or order given or made in an action commenced in the court.

(10) No assessment shall be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of any person in the observance of any directory provision of this Act. Irregularities

(11) The time within which a notice of objection under subsection 13 (1) or a notice of appeal under subsection (1) of this section is to be served may be extended by the Minister if application for extension is made before expiration of the time for service of the notice of objection or notice of appeal, as the case may be. 1973, c. 99, s. 14 (2-11). Extension of time

15.—(1) Every collector, importer, wholesaler or retailer shall keep at his principal place of business records and books of account in such form and containing such information as will enable the accurate determination of the taxes collectable or payable under this Act. Records to be kept

(2) Every collector and importer shall, until written permission for their disposal is received from the Minister, retain every such record or book of account and every account or voucher necessary to verify the information in any such record or book of account. 1973, c. 99, s. 15. Idem

16.—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises where any business is carried on or any property is kept or anything is done in connection with any business or where any books or records are or should be kept pursuant to this Act, and may, Investigations

- (a) audit or examine the books, records, accounts, vouchers, letters, telegrams or other documents that relate or may relate to either the information that is or should be in the books or records or to the amount of tax collectable or payable under this Act;
- (b) examine the property described by an inventory or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax collectable or payable under this Act;

- (c) require a purchaser, retailer, wholesaler, importer or collector liable to collect or pay or considered possibly liable to collect or pay tax under this Act or, if such purchaser, retailer, wholesaler, importer or collector is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof or any other person on the premises of such purchaser, retailer, wholesaler, importer or collector to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises with him; and
- (d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

Idem

(2) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any purchaser, retailer, wholesaler, importer or collector, or if such purchaser, retailer, wholesaler, importer or collector is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof,

- (a) any information or a return as required under this Act or the regulations; or
- (b) production or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

Idem

(3) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding for or paying or liable to pay any amount to a purchaser, retailer, wholesaler, importer or collector, or from any partner, agent or official of any such person, partnership, syndicate, trust or corporation, production, or production on oath, of any books, letters, accounts, invoices, statements, financial or other-

wise, or other documents, within such reasonable time as is stipulated therein.

(4) The Minister may, for any purpose related to the administration or enforcement of this Act, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing any officer of the Ministry of Revenue, together with such members of the Ontario Provincial Police Force or other peace officers as he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations and to seize and to take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings. Idem

(5) The Minister may, by registered letter or by a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer for the purpose of determining what tax, if any, is collectable or payable under this Act by any purchaser or collector, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand. Production of evidence to prove tax payable by another person

(6) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make, or cause to be made, one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way. Copies

(7) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or prevent or attempt to prevent any person doing any such thing. Compliance

(8) Notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do. Idem

Administra-
tion of
oaths

(9) Declarations or affidavits in connection with returns delivered under this Act or statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor. 1973, c. 99, s. 16.

Extended
time for
making
returns

17. The Minister may extend the time for making any return either before or after the time for making it has expired. 1973, c. 99, s. 17.

Recovery
of tax

18.—(1) Upon default of payment of an amount assessed under section 11,

(a) the Minister 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 and by the name of the Minister or his name of office 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 Minister may issue a warrant directed to the sheriff of any county or district in which any property of a person liable to make a payment or remittance under this Act is located or situate for the amount of the tax, interest and penalty or any of them 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

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person, partnership, syndicate, trust or corporation 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 of Revenue.

Remedies
for recovery
of tax

(3) The use of any of the remedies provided by this section 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 Her Majesty the Queen in right of Ontario. 1973, c. 99, s. 18.

19.—(1) When the Minister 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 make a payment or remittance 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. Garnishment

(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. Idem

(3) Every person who has discharged any liability to a person liable to make a payment or remittance 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 make a payment or remittance 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. Services of garnishee

(5) Where the persons who are or are about to become indebted or liable to make a payment to a person liable to make a payment or remittance 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. 1973, c. 99, s. 19. Idem

20.—(1) Every person required to collect the tax imposed by this Act who fails to collect the tax is liable on conviction to a fine of not less than \$200 and not more than an amount equal to the amount of tax that should have been collected as determined under subsection (4). Penalty for failure to collect tax

Penalty for failure of employee to collect tax

(2) Every employee of a person required to collect the tax imposed by this Act who permits or authorizes or is a party or privy to supplying gasoline or aviation fuel to a purchaser without collecting from the purchaser the tax imposed by this Act is guilty of an offence and on conviction is liable to a fine equal to the amount of the tax that should have been collected as determined under subsection (4).

Idem

(3) Every person who is required to remit to a collector or to the Treasurer the tax imposed by this Act who fails to remit the tax is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than an amount equal to the amount of the tax that should have been remitted as determined under subsection (4).

Idem

(4) The Minister shall determine the amount of the tax referred to in subsections (1), (2) and (3) from such information as is available to him and shall issue a certificate as to the amount, but except where the Minister considers that there has been deliberate evasion of this Act, he shall not take into account a period of more than three years in determining the amount of tax referred to in the certificate.

Idem

(5) In any prosecution under subsection (1), (2) or (3) a certificate that is signed or that purports to be signed by the Minister or Deputy Minister of Revenue and that states the amount of tax that should have been collected or remitted, as the case may be, is *prima facie* evidence of the amount of tax that should have been collected or remitted and of the authority of the person giving or making the certificate without any proof of appointment or signature.

Idem

(6) Any information in respect of an offence under this Act may be for one or more than one offence, and no information, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

Idem

(7) Neither the application of any provision of this section nor the enforcement of any penalty hereunder suspends or affects any remedy for the recovery of any tax payable under this Act. 1973, c. 99, s. 20.

Offences

21.—(1) Every person who has failed to deliver a return as and when required by this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$25 for each day during which the default continues.

(2) Every person who contravenes section 16 is guilty of an offence and on conviction is liable to a fine of \$25 for each day during which the default continues. 1973. c. 99, s. 21. Idem

22. Every person who has,

False
statements

- (a) made, participated in, assented to or acquiesced in the making of false or deceptive statements in a return, certificate, statement or answer, delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a purchaser, retailer, wholesaler or collector;
- (c) made, assented to or acquiesced in the making of, false or deceptive entries or omitted, assented to or acquiesced in the omission, to enter a material particular in records or books of account of a purchaser, retailer, wholesaler or collector;
- (d) wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit any offence described in clauses (a) to (d),

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on conviction to a fine of not less than \$200 and not more than an amount equal to double the amount of the tax that should have been declared to be collectable or payable or that was sought to be evaded, or to imprisonment for a term of not more than two years, or to both. 1973, c. 99, s. 22.

23. Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on conviction is liable for a first offence to a fine of not less than \$25 and not more than \$200, and for any subsequent offence to a fine of not less than \$100 and not more than \$500. 1973, c. 99, s. 23.

General
penalty

24. Any officer, director or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in the commission of any act which is an offence under this Act for which the corporation would be liable for prosecution

Officers,
etc., of
corporations

is guilty of an offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. 1973, c. 99, s. 24.

Limitation

25. An information in respect of an offence against this Act shall be laid within six years of the time when the matter of the information arose. 1973, c. 99, s. 25.

Fines payable to Treasurer

26. Fines imposed under this Act shall be paid to the Treasurer on behalf of Her Majesty the Queen in right of Ontario, and every penalty imposed by this Act is payable upon and in accordance with the demand of the Minister. 1973, c. 99, s. 26.

Over-payments

27.—(1) Where a person has remitted to the Treasurer a greater amount of money for a period than was required by this Act to be remitted for that period, or a greater amount than was payable by the person, the Treasurer shall either refund the overpayment or, at the option of the Minister, apply the amount of the overpayment to liability of the person with respect to a previous or subsequent period, in which latter case the Minister shall notify the person of such action.

Idem

(2) Where an amount in respect of an overpayment is refunded or applied on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing on the day the overpayment arose and ending with the day of refunding or application on other liability, unless the amount of interest so calculated is less than \$5 in which event no interest need be paid or applied under this subsection.

Idem

(3) Where by a decision of the Minister under section 13 or by a decision of the court it is finally determined that the tax payable under this Act by a person is less than the amount assessed by the assessment to which objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment of tax, the interest payable under subsection (2) on the overpayment shall be computed at the rate prescribed by the regulations. 1973, c. 99, s. 27.

Limitation

(4) Notwithstanding subsection (1), no refund or application of an overpayment of tax shall be made unless, within two years following the date when such overpayment was first made, an application for the refund thereof is made to the Minister and it is established within such two years to the satisfaction of the Minister that the amount a refund of which is sought was not payable under this Act.

(5) Where, as the result of an assessment or re-assessment or the final decision of a court in proceedings commenced under section 14, the person assessed or re-assessed or the appellant, as the case may be, has overpaid the tax payable under this Act, the amount of such overpayment shall be refunded or applied in accordance with subsection (1) and notwithstanding the limitations contained in subsection (4). 1978, c. 77, s. 2. Exception

28. Any amount refunded under this Act in excess of the amount to which the person receiving the refund was entitled shall be deemed to be tax owing to the Treasurer, and the sections of this Act relating to the assessment (including objection and appeal therefrom) and collection of taxes apply with necessary modifications to the said amount. 1973, c. 99, s. 28. Refunds

29. Where, owing to special circumstances, it is considered inequitable that the whole amount of interest imposed by this Act be paid, the Minister may exempt a person from payment of the whole or any part of the interest. 1973, c. 99, s. 29. Relief from interest

30.—(1) Except as authorized by this section, no person employed by the Government of Ontario shall, Communication of information

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

(2) Notwithstanding any other Act, but subject to subsection (3), no person employed by the Government of Ontario shall be required, in connection with any legal proceedings, Officials not compellable as witnesses

(a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or

(b) to produce any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

(3) Subsections (1) and (2) do not apply in respect of, Exceptions for legal proceedings

(a) criminal proceedings under any Act of the Parliament of Canada; or

- (b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or
- (c) proceedings relating to the administration or enforcement of this Act or the collection or assessment of tax.

Exception
for internal
adminis-
tration

(4) A person employed by the Government of Ontario may, in the course of his duties in connection with the administration or enforcement of this Act,

- (a) communicate or allow to be communicated to an official or authorized person employed by the Government of Ontario in the administration and enforcement of any laws relating to the raising of revenues for provincial purposes any information obtained by or on behalf of the Minister for the purposes of this Act; and
- (b) allow an official or authorized person employed by the Government of Ontario in the administration or enforcement of any laws relating to the raising of revenues for provincial purposes to inspect or have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

Exception for
objection or
appeals, etc.

(5) Notwithstanding anything in this Act, the Minister may permit a copy of any book, record, writing, return or other document obtained by him or on his behalf for the purposes of this Act to be given to,

- (a) the person from whom the book, record, writing, return or other document was obtained; or
- (b) any person,
 - (i) for the purposes of any objection or appeal that has been or may be taken by that person under this Act arising out of any assessment of tax, interest or penalties under this Act in connection with which the book, record, writing, return or other document was obtained, or
 - (ii) by whom any amount payable under this Act is payable or has been paid,

or the legal representative of any person mentioned in clause (a) or (b) or the agent of any such person authorized in writing in that behalf.

(6) Notwithstanding anything in this Act, the Minister may permit information or a copy of any book, record, writing, return or other document obtained by him or on his behalf for the purposes of this Act to be given to,

Exception for tax enforcement in other jurisdictions

- (a) a minister of the Government of Canada or any officer or employee employed under a minister of the Government of Canada for the purposes of administration of any Act of the Parliament of Canada imposing any tax or duty; or
- (b) a minister of the government of any province of Canada or officer or employee employed under that minister, for the purposes of administering and enforcing an Act of the Legislature of that province imposing any tax or duty,

if the minister of the Government of Canada or the minister of the government of another province, as the case may be, is permitted to give to the Minister information or copies of any book, record, writing, return or other document obtained by or on behalf of the minister of the Government of Canada, or the minister of the government of that other province, as the case may be, in the administration or enforcement of that Act for the purposes of the administration of this Act. 1973, c. 99, s. 30.

31. For the purpose of simplifying compliance with this Act and the administration and collection of the tax imposed by this Act, and in order to provide for reciprocal arrangements to settle competing claims for tax on the acquisition and use of gasoline or aviation fuel by persons carrying on business in more than one province or territory of Canada, the Lieutenant Governor in Council may, upon the recommendation of the Minister and on such terms and conditions as are considered necessary and expedient, enter into an agreement with any province or territory of Canada that tax paid to one jurisdiction on the acquisition there of gasoline or aviation fuel that is transferred to the other jurisdiction and that becomes liable to tax in such other jurisdiction under this Act or any similar legislation in force in such other jurisdiction may be paid by one jurisdiction to the other in reduction of the liability to such tax arising in the jurisdiction receiving such payment and in lieu of refunding such tax to the person who paid it and who became liable for a similar tax in such other jurisdiction. 1978, c. 77, s. 3.

Inter-provincial settlement of competing tax claims

32. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) providing for the collection of the tax imposed by this Act;
- (b) providing for the accounting for and paying over of any sums of money collected by or payable to the persons charged with the collection of the tax imposed by this Act and regulating the time and manner of such accounting and payment;
- (c) prescribing the returns and statements to be made by importers, manufacturers, wholesalers, retailers and purchasers of gasoline or aviation fuel, the information to be given in such returns and statements and by whom and in what manner they shall be made, and prescribing the records to be kept by such persons;
- (d) excluding products from this Act;
- (e) designating products to be aviation fuel;
- (f) exempting any class of persons from the payment of the tax imposed by this Act;
- (g) providing for the refund of the tax paid under this Act, or any portion thereof, to any purchaser or class of purchasers and prescribing the records and material to be furnished upon any application for a refund;
- (h) providing for the refund of tax in whole or in part owing to special circumstances, and prescribing the terms and conditions under which such refund may be made;
- (i) prescribing the rates of interest payable under this Act;
- (j) prescribing forms to be used for the purpose of this Act or the regulations;
- (k) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (l) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1973, c. 99, s. 31; 1979, c. 16, s. 3.