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c 38 Retail Sales Tax Amendment Act, 1989 (No. 2)

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CHAPTER 38

An Act to amend the Retail Sales Tax Act*Assented to July 13th, 1989*

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

1.—(1) Clause (ba) of paragraph 4 of section 1 of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1989, chapter 15, section 1, is amended by inserting after “*Excise Tax Act (Canada)*” in the second line “or the *Excise Act (Canada)*”.

(2) Paragraph 4 of section 1 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 1, 1983, chapter 27, section 1 and 1989, chapter 15, section 1, is further amended by striking out “and” at the end of clause (e), by adding “and” at the end of clause (f) and by adding thereto the following clause:

(g) any tax payable by the purchaser under section 2b or 2c,

.

2. Subsection 2 (14) of the said Act is amended by adding at the end thereof “together with any tax payable under section 2b or 2c”.

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

2b.—(1) Every purchaser of a new pneumatic tire, other than a purchaser referred to in subsection (2), shall pay to Her Majesty in right of Ontario a tax of \$5 in respect of the consumption or use of the tire.

Tax on new
pneumatic
tires

(2) The purchaser of a new pneumatic tire is exempt from the tax imposed by this section if,

Exemptions

- (a) the tire is acquired by the purchaser as part of tangible personal property acquired by the purchaser and the purchaser is exempt under subsection 5 (1) from the tax imposed by section 2 in respect of the purchase of the tangible personal property;
- (b) the tire is acquired by the purchaser in replacement of a tire described in clause (a); or
- (c) the tire is attached to or is designed for use on any class or classes of tangible personal property prescribed by the Minister.

Definition of
"sale" and
"first sale"

(3) For the purposes of this section,

- (a) any sale of tangible personal property to which a tire is attached, or in connection with which the tire is supplied, is a sale of the tire;
- (b) the first sale of a pneumatic tire means the first sale of the tire that is,
 - (i) a retail sale,
 - (ii) a lease or rental for a term of at least seven days of tangible personal property to which the tire is attached, or in connection with which the tire is supplied, or
 - (iii) a transfer by a vendor, under the terms of a lease or rental agreement referred to in sub-clause (ii), of the tire in replacement of another tire;
- (c) a purchaser shall be considered to acquire a new pneumatic tire on the date on which,
 - (i) the purchaser acquires the pneumatic tire at the first sale of the tire, if the first sale is in Ontario,
 - (ii) the purchaser is required under subsection 2 (14) to pay the tax imposed by section 2 in respect of tangible personal property, other than a motor vehicle for which a permit is required under the *Highway Traffic Act*, to which the tire is attached or in connection with which the tire is used, if the first sale of the tire was outside of Ontario within the previous six months, or

- (iii) the purchaser is required under subsection 2 (14) to pay the tax imposed by section 2 in respect of a motor vehicle for which a permit is required under the *Highway Traffic Act*, to which the tire is attached or in connection with which the tire is used, if the motor vehicle is a current or prior year model, as defined by the Minister, and the first sale of the tire was outside of Ontario.

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

2c.—(1) Every purchaser of a new fuel inefficient car, other than a car which is a settler's effect referred to in paragraph 71 of subsection 5 (1) or tangible personal property referred to in paragraph 73 of subsection 5 (1), shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use of the car in the amount determined under subsection (3).

Tax on new
fuel
inefficient
passenger
cars

(2) For the purposes of this section,

Definition of
"fuel
inefficient
car" and
"new fuel
inefficient
car"

- (a) a fuel inefficient car is a passenger car, as defined by the Minister, having a highway fuel consumption rating, as determined under subsection (4), of 9.5 or more litres of gasoline or diesel fuel per 100 kilometres; and
- (b) a purchaser shall be considered to be the purchaser of a new fuel inefficient car where,
- (i) the first sale of the fuel inefficient car to a purchaser is in Ontario and is a retail sale of the car to the purchaser or a rental or lease to the purchaser of the fuel inefficient car for a term of at least one year,
- (ii) the first sales of the fuel inefficient car to purchasers are in Ontario on or after the 1st day of July, 1989, and are leases or rentals of the car for terms less than one year, and the purchaser acquires the car at such a sale within 180 days of the first such sale,
- (iii) the first sale of the fuel inefficient car to a purchaser is outside of Ontario on or after the 1st day of July, 1989, and, on the date the purchaser thereof is required under subsection 2 (14) to pay the tax imposed by section 2, the

car is a current or prior year model as defined by the Minister.

Amount of tax

(3) The amount of tax payable under subsection (1) by a purchaser of a new fuel inefficient car shall be the amount of tax appearing in the following table opposite the range of highway fuel consumption ratings which includes the highway fuel consumption rating of the car, except that the total amount of tax payable under this section by all purchasers referred to in subclause (2) (b)(ii) in respect of the same car shall not exceed the amount of tax otherwise determined under this subsection, and each such purchaser shall pay such portion of the total amount of tax which, in the Minister's opinion, reasonably represents the use of the car by that purchaser during the 180 days referred to in subclause (2) (b)(ii):

Highway Fuel Consumption Ratings

<i>Litres per 100 kilometres</i>	<i>Tax</i>
9.5 - 12.0	\$ 600
12.1 - 15.0	\$1,200
15.1 - 18.0	\$2,200
over 18.0	\$3,500

Highway fuel consumption rating

(4) For the purposes of this section, the highway fuel consumption rating of a passenger car shall be deemed to be the lesser of,

(a) the highway fuel consumption rating most recently published by the Department of Transport (Canada) of cars matching the description of the passenger car, if such a publication is available publicly at the date of sale of the passenger car; or

(b) 18.1 litres per 100 kilometres.

Rebates and assessments of additional tax

(5) Where the highway fuel consumption rating of a car is subsequently determined, in a manner prescribed by the Minister, to be less than or greater than the rating used in the determination of an amount of tax payable by the purchaser under this section, the Minister may,

(a) where the subsequent rating is less, rebate with interest to the purchaser, upon receipt of an application therefor in the manner and within the time prescribed by the Minister, the amount of tax paid by the purchaser under this section in excess of the amount of tax that would have been determined using the subsequent rating; or

- (b) where the subsequent rating is greater, assess or reassess the tax payable by the purchaser under this section together with interest from the date the car was acquired.

5.—(1) Subsection 5 (1) of the said Act is amended by striking out “this Act” in the third line and inserting in lieu thereof “section 2”.

(2) Paragraph 17 of subsection 5 (1) of the said Act is repealed.

(3) Paragraph 26 of subsection 5 (1) of the said Act is amended by inserting after “thereunder” in the sixth line “or the *National Transportation Act, 1987* (Canada) or regulations made thereunder,”.

6. Section 40 of the said Act is repealed and the following substituted therefor:

40. Any officer, director or agent of a corporation, or any other person, who directed, authorized, assented to, acquiesced in or participated in the commission of any act by the corporation which is an offence under this Act, or the omission of any act the omission of which is an offence under this Act, 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 of any offence under this Act.

Officers, etc.,
of
corporation

7.—(1) Clause 45 (3) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 66, section 12, is amended by inserting after “tax” in the first line “imposed by section 2”.

(2) Subclauses (ii) and (iii) of clause 45 (3) (i) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 66, section 12, are repealed and the following substituted therefor:

- (ii) a vehicle that is powered by a gasoline or diesel engine and for which a permit is required under the *Highway Traffic Act*, and any tangible personal property sold as a conversion kit, including the labour provided to install the conversion kit, where the purchaser enters into a written contract for the conversion of the vehicle within ninety days of the date of sale, and the vehicle is in fact converted to permit it to operate in a manner described in

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sub-subclause (i)(A) or (B) within 180 days of the date of sale of the vehicle, or

- (iii) tangible personal property sold as a conversion kit to be used to convert any vehicle powered by a gasoline or diesel engine into a vehicle that operates in the manner described in sub-subclause (i)(A) or (B), including the labour to install the kit, where the vehicle is not so converted within 180 days of the date of sale of the vehicle,

(3) Subsection 45 (3) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 10, 1983, chapter 27, section 16 and 1986, chapter 66, section 12, is further amended by adding thereto the following clause:

- (k) providing for the rebate of any tax paid by a purchaser under section 2c, where the purchaser is entitled to a rebate referred to in subclause (i)(ii), in connection with the conversion of the vehicle to permit it to operate in the manner described in sub-subclause (i)(i)(A).

(4) The said subsection 45 (3) is further amended by adding thereto the following clause:

- (l) providing for the computation, payment and collection of tax imposed by section 2b, in respect of the acquisition of tangible personal property at a sale that is a lease or rental of the tangible personal property, in a manner different from the computation, payment and collection of tax described in subsection 2 (6).

(5) The said subsection 45 (3) is further amended by adding thereto the following clause:

- (m) providing for the computation, payment and collection of tax imposed by section 2c, in respect of the acquisition of tangible personal property at a sale that is a lease or rental of the tangible personal property, in a manner different from the computation, payment and collection of tax described in subsection 2 (6).

(6) The said subsection 45 (3) is further amended by adding thereto the following clause:

- (n) providing for a rebate or a partial rebate of tax paid on motor vehicles purchased to transport physically disabled persons.

8.—(1) Except as provided in subsections (2) to (5), this Act comes into force on the day it receives Royal Assent. Commence-
ment

(2) Subsection 1 (1) shall be deemed to have come into force on the 2nd day of May, 1988. Idem

(3) Subsection 7 (2) shall be deemed to have come into force on the 18th day of May, 1989 and applies in respect of motor vehicles purchased on, before or after that date. Idem

(4) Subsection 1 (2), sections 2, 3 and 5 and subsections 7 (1), (4) and (6) shall be deemed to have come into force on the 1st day of June, 1989. Idem

(5) Section 4 and subsections 7 (3) and (5) shall be deemed to have come into force on the 1st day of July, 1989. Idem

9. The short title of this Act is the *Retail Sales Tax Amendment Act, 1989 (No. 2)*. Short title

