

1980

c 300 Motor Vehicle Fuel Tax Act

Ontario

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CHAPTER 300

Motor Vehicle Fuel Tax Act

1. In this Act,

Interpre-
tation

- (a) "fuel" means any gas or liquid that may be used for the purpose of generating power by internal combustion, and includes any substance added thereto, but does not include,
- (i) any product that is excluded from this Act by the regulations and to which subsection 3 (5) does not apply,
 - (ii) gasoline on which the tax imposed by the *Gasoline Tax Act* has been paid, or
 - (iii) aviation fuel on which the tax imposed by the *Gasoline Tax Act* has been paid and that is used to create power to propel an aircraft;
- (b) "fuel tank" means that part of a motor vehicle in which fuel for generating power in the motor vehicle is kept;
- (c) "Minister" means the Minister of Revenue;
- (d) "motor vehicle" means a machine operated, propelled or driven otherwise than by muscular power;
- (e) "purchaser" means a person who acquires or receives fuel for his own use or consumption or for the use or consumption by others at his expense, or on behalf of, or as agent for, a principal who desires to acquire the fuel for use or consumption by him or other persons at his expense;
- (f) "registrant" means the holder of a registration certificate under this Act;
- (g) "regulations" means the regulations made under this Act;
- (h) "tax" includes all penalties and interest that are or may be added to a tax under this Act;

R.S.O. 1980,
c. 186

- (i) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1970, c. 282, s. 1; 1972, c. 3, s. 17 (1); 1972, c. 14, s. 1; 1972, c. 147, s. 1; 1979, c. 25, s. 1.

Persons
required to
register

2.—(1) Unless he is a registrant, no person shall supply fuel that is taxable or exempt from tax under this Act or the regulations to any person, except as authorized in writing by the Minister, and every person in the business of supplying fuel for any purpose shall register with the Minister as required by this section or the regulations.

Idem (2) Unless he is a registrant or is specifically exempted by the regulations from the application of this subsection, no person shall receive fuel as a registrant. 1977, c. 18, s. 1, *part*.

Idem (3) Where the Minister is satisfied that the applicant for a registration certificate will be acquiring fuel principally,

(a) for resale by the applicant;

(b) to be used by the applicant in a manner or for a purpose that will render such fuel exempt from tax by virtue of this Act or the regulations, or that will entitle the applicant to apply to the Minister for a full refund of the tax imposed by this Act on such fuel, and that the amount of fuel to be used by the applicant will generally exceed 350 litres of fuel per month; or

(c) to be disposed of or consumed by the applicant in a manner prescribed by the regulations for the purpose of this subsection,

the Minister may issue a registration certificate to such applicant, and the certificate may be made subject to such conditions and restrictions as the Minister considers necessary to ensure that fuel acquired by the applicant through his use of the certificate will be dealt with by the applicant in accordance with clause (a), (b) or (c), as the case may be. 1977, c. 18, s. 1, *part*; 1978, c. 78, s. 1.

Idem (4) Every person required to be a registrant under this section or the regulations shall, by such form and in such manner as the Minister requires, apply for registration, and subject to this Act and the regulations, a registration certificate shall be issued by the Minister, and every such certificate shall expire on the 31st day of March next following the date of its issue, is not transferable, and may be renewed annually if the registrant to whom it is issued is not in

contravention of this Act or the regulations and continues to satisfy the conditions under which the certificate is issued.

(5) The Minister may refuse to issue a registration certificate to any applicant, or may suspend or cancel any registration certificate, if the person to whom the certificate is issued, or if an applicant to whom a certificate has been issued, contravenes or has permitted the contravention of the provisions of this Act or the regulations or the conditions or restrictions upon which his certificate is or was issued, but, subject to subsection (6), before any refusal, suspension or cancellation is made, the applicant or registrant, as the case may be, shall be afforded an opportunity, at a hearing before the Minister or some person authorized by the Minister to hold the hearing, to show cause why the issue of a registration certificate should not be refused or why the registration certificate should not be suspended or cancelled, whichever is the case. Refusal to issue and cancellation

(6) Where a registrant has failed to remit the tax that he has collected under this Act or that is payable by him under this Act at the time and in the manner required by this Act or the regulations, the Minister may, by notice in writing to the registrant and without a hearing, suspend forthwith the registrant's certificate of registration, and the notice shall state the failure of the registrant for which his certificate is suspended and shall fix a day, not more than fifteen days after the date of the suspension, for a hearing before the Minister or some person authorized by him to hold the hearing to determine whether the registrant's suspension should be rescinded or continued and upon what conditions the suspension may be rescinded or continued. Idem

(7) The notice under subsection (6) and a notice of hearing under subsection (5) is properly served if served either by personal service or by registered mail sent to the last known address of the registrant or applicant, as the case may be. Service of notice

(8) Every person who, Offence

- (a) is required to become a registrant by this section or by the regulations and who fails to do so;
- (b) being a registrant, contravenes this Act or the regulations or any condition or restriction contained in his certificate of registration issued under this Act or the regulations; or
- (c) not being a registrant, supplies, disposes of, consumes or deals with any fuel in a manner that would

require him to be a registrant under this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not less than the amount of tax, if any, that should have been paid or remitted by such person in compliance with this Act or the regulations, plus an additional amount of not less than \$100 and not more than \$2,000. 1977, c. 18, s. 1, *part*.

Tax

3.—(1) Every purchaser shall pay to the Treasurer a tax at the rate of 5.9 cents per litre on all fuel received or used in Ontario by him to generate power in a motor vehicle other than railway equipment and shall pay a tax at the rate of 2.2 cents per litre on all fuel received or used in Ontario by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.

Idem

(2) Every registrant shall pay to the Treasurer a tax at the rate of 5.9 cents per litre on all fuel used by him to generate power in a motor vehicle other than railway equipment and shall pay a tax at the rate of 2.2 cents per litre on all fuel used by him to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system. 1979, c. 25, s. 2 (1).

Payment
of tax

(3) Subject to subsection (5), the tax imposed by subsection (1) shall be paid at the time the fuel is supplied to the purchaser or, where the fuel is acquired by the purchaser outside Ontario, at the time such fuel is used in Ontario, and the tax imposed by subsection (2) shall be paid in accordance with section 10.

Security
for tax

(4) Where a purchaser uses in Ontario fuel that was acquired outside Ontario, such purchaser shall, upon the demand of the Minister or of some one authorized by the Minister to make such a demand, furnish to the Minister security in cash or in such other form as is satisfactory to the Minister that is sufficient for the payment of all tax imposed by this Act on the use by such purchaser in Ontario of fuel on which the tax imposed by this Act has not been paid, and in the event that the tax for which the security is given is not paid, the Minister may realize upon the security to the extent necessary to pay such tax.

Payment
of tax

(5) Where any person places any product that is excluded from this Act by the regulations in a fuel tank, such product thereupon becomes taxable as fuel under this Act and is no longer excluded from this Act, and the person so doing shall forthwith pay the tax imposed by this Act on such fuel to the Treasurer directly or through any registrant.

(6) Every person who knowingly fails to pay the tax imposed ^{Penalty} by subsection (1), (2) or (5) when required by this Act is guilty of an offence and on conviction is liable to a fine of not less than the amount of the tax that he failed to pay and of an additional amount that is not less than \$100 and not more than \$5,000.

(7) Every person who fails to comply with subsection (4) is ^{Idem} guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

(8) Every person who is not a registrant and who knowingly ^{Idem} supplies or makes available to a purchaser fuel that becomes taxable under this Act is guilty of an offence and on conviction is liable to a fine of not less than the amount of tax imposed by this Act on the fuel that he has supplied or made available to a purchaser plus an amount that is not less than \$100 and not more than \$5,000.

(9) Where it is established to the satisfaction of the Minister ^{Examination of books, etc.} that a person who is not a registrant has supplied or made available to a purchaser fuel that becomes taxable under this Act, any person thereunto authorized by the Minister may enter upon the business premises of such person who is not a registrant and may audit and examine the books, records and accounts of such person to ascertain the amount of fuel that has been supplied under subsection (8) and the amount of tax that is payable with respect thereto. 1972, c. 147, s. 2.

(10) Where any person selling fuel receives any payment ^{Amounts in lieu of tax} 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 and, for the purposes of the assessment and collection of such payment, the person receiving such payment as or in lieu of the tax payable under this Act is deemed to be a registrant. 1977, c. 18, s. 2; 1979, c. 25, s. 2 (2).

4.—(1) Where there are more than 200 litres of fuel in ^{Duty of operator where more than 200 litres in fuel tank} the fuel tank, including any supplemental tanks, of a motor

vehicle, such fuel shall be deemed to have been purchased in Ontario, and the person in charge of any such motor vehicle shall have in his possession proof that the tax imposed by this Act was paid or that he is a registrant. R.S.O. 1970, c. 282, s. 4 (1); 1972, c. 147, s. 3; 1977, c. 18, s. 3; 1978, c. 78, s. 3.

Offence (2) Every person who fails to comply with subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

Exception (3) This section does not apply to a public commercial vehicle for which there has been issued a Class L single-trip permit under the *Public Commercial Vehicles Act*. R.S.O. 1970, c. 282, s. 4 (2, 3).

R.S.O. 1980,
c. 407

Detention and examination of motor vehicle 5.—(1) For the purpose of ascertaining that the tax imposed by this Act has been paid on fuel in the fuel tank of a motor vehicle, or for the purpose of ascertaining whether any tax imposed by this Act on such fuel is payable, any person thereunto authorized by the Minister may stop and detain any motor vehicle in Ontario that has a fuel tank that is capable of holding more than 200 litres and may examine such motor vehicle and the fuel contained in any fuel tank thereof, and may demand proof that the tax imposed by this Act for the fuel in the fuel tank of such motor vehicle has been paid. 1972, c. 147, s. 4, *part*; 1977, c. 18, s. 4 (1); 1978, c. 78, s. 4.

Penalty (2) Every operator of a motor vehicle that may be stopped and detained under subsection (1) who refuses to permit the detention and examination of such motor vehicle that is under his control, or who refuses to permit the examination of the fuel used in such motor vehicle, is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500 for each offence. 1972, c. 147, s. 4, *part*; 1977, c. 18, s. 4 (2).

Invoice 6.—(1) Every registrant shall inform every purchaser of the price of the fuel and shall deliver to him an invoice showing,

(a) the number of his registration certificate;

(b) the cost of the fuel to the purchaser; and

(c) the amount of the tax paid by the purchaser. R.S.O. 1970, c. 282, s. 5; 1977, c. 18, s. 5 (1).

Responsibility of purchaser (2) Upon the request of the Minister, every purchaser of fuel and every person in control of a motor vehicle that

contains fuel shall furnish to the Minister proof that the fuel was purchased from a registrant or that tax has been paid on such fuel or that no tax was payable under this Act on such fuel. 1977, c. 18, s. 5 (2).

7. The Minister may require any registrant to furnish ^{Security} security on such terms and conditions and in such amount as the Minister considers appropriate. R.S.O. 1970, c. 282, s. 6; 1979, c. 25, s. 3.

8.—(1) Subject to subsection (2), every registrant shall, as ^{Collection} agent of the Minister, collect from the purchaser the tax imposed by this Act. R.S.O. 1970, c. 282, s. 7 (1).

(2) No registrant shall collect the tax imposed by this Act ^{Exception} on fuel supplied by him to a registrant, unless the fuel is supplied by delivering it directly into the fuel tank of a motor vehicle licensed or required to be licensed under the *Highway* ^{R.S.O. 1980,} *Traffic Act*, or unless the registrant to whom the fuel is ^{c. 198} supplied is required or permitted by this Act or the Minister to pay the tax imposed by this Act. 1977, c. 18, s. 6.

(3) For the purpose of collecting the tax, the Minister may ^{Arrange-} enter into such arrangement with a registrant as he considers ^{ments for} expedient. R.S.O. 1970, c. 282, s. 7 (3); 1972, c. 14, s. 3.

(4) Every registrant shall be deemed to hold the moneys ^{Tax to} collected by him under this Act in trust for the Crown in right ^{be trust} of Ontario. ^{moneys}

(5) Every registrant who refuses or neglects to collect the ^{Penalty for} tax in accordance with this Act is guilty of an offence and on ^{failure to} conviction is liable to a fine of not less than the amount of the tax ^{collect tax} that he refused or neglected to collect and \$10, and not more than the amount of the tax that he refused or neglected to collect and \$1,000.

(6) Every employee of a registrant who permits or authorizes ^{Penalty for} or is a party or privy to supplying fuel to a purchaser with- ^{failure of} out collecting from the purchaser the tax imposed by this ^{employee to} Act is guilty of an offence and on conviction is liable to a fine equal ^{collect tax} to the amount of the tax and \$50. R.S.O. 1970, c. 282, s. 7 (4-6).

9.—(1) Every registrant shall,

Returns

- (a) without notice or demand and at the time and in the manner prescribed in the regulations; or
- (b) on or before the day designated in the demand of the Minister served on the registrant by hand or by registered letter,

deliver to the Minister such return as he requires for the purpose of carrying out this Act. R.S.O. 1970, c. 282, s. 8 (1); 1978, c. 78, s. 5.

Verification
of returns

(2) Every return shall be verified by the certificate of the registrant and, if the registrant is not an individual, of its president 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 registrant and exhibit truly, correctly and completely all information for the period covered by the return.

Penalty for
failure to
deliver
return

(3) Every registrant who fails to comply with subsection (1) shall pay a penalty of,

(a) \$10; or

(b) 5 per cent of the tax payable by him and 5 per cent of the tax collectable by him,

whichever is the greater, but in no case shall the penalty be more than \$500.

Penalty for
failure to
complete
return

(4) Every registrant 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 \$20. R.S.O. 1970, c. 282, s. 8 (2-4).

Trans-
mission
of tax

10.—(1) Every registrant shall transmit with the return required by section 9 the amount of the tax payable by him or payable and collectable by him, as the case may be, as shown therein. R.S.O. 1970, c. 282, s. 9 (1).

Deficiency

(2) Subject to subsection (3), where a registrant transmits less than the amount of the tax payable by him or payable and collectable by him, as the case may be, as shown by the return, he shall pay to the Treasurer interest at such rate as is prescribed in the regulations upon the deficiency calculated from the date of default until the date of transmission to the Treasurer. R.S.O. 1970, c. 282, s. 9 (2); 1972, c. 147, s. 5; 1975, c. 10, s. 3 (1).

Where refund
of tax
claimed

(3) Where, in a return delivered by a registrant in accordance with this Act and the regulations, it is shown that tax under this Act is payable by the registrant with respect to his use after the 7th day of April, 1975 of fuel, and, where, at the time such return is delivered to the Minister, the registrant also applies for a refund under section 24 of some or all of such tax on fuel so used by him, he may,

notwithstanding subsection (1), retain the amount a refund of which he claims until the refund for which he has applied is, in whole or in part, approved or refused by the Minister and notification thereof is sent to the registrant, and upon his being notified of the refusal to refund any amount a refund of which has been claimed, the registrant shall, with his next return or at such earlier time as is specified in the notification, transmit to the Treasurer any amount a refund of which has been refused together with interest thereon at the rate of 9 per cent per annum or such other rate as is prescribed by the regulations for the period during which such amount has been retained by the registrant, and upon his being notified of the approval of the refund of any amount a refund of which has been claimed, the registrant may, subject to subsection (4), retain for his own use such amount so approved.

(4) 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 under this Act owing to the Crown, and the provisions of this Act relating to the assessment (including objection and appeal therefrom) and to collection of taxes apply with necessary modifications to the said amount. 1975, c. 10, s. 3 (2).

Recovery
of excess
refund

11.—(1) If the Minister, in order for him to assess the tax collectable by a registrant or of the tax payable by a registrant or purchaser under this Act or for any other purpose, desires any information or additional information, or a return from a registrant or purchaser who has not made a return or a complete or sufficient return, he may, by registered letter, demand from the registrant or purchaser, or from the president, manager, secretary, or any director, agent or representative of any registrant or purchaser, such information, additional information or return, and the person upon whom the demand is made shall deliver to the Minister the information, additional information or return within the time specified in the registered letter.

Minister
may demand
information

(2) The Minister may, by registered letter, require the production under oath or otherwise by any registrant or purchaser, or by the president, manager, secretary, or any director, agent or representative of any registrant or purchaser, or by any person, partnership, syndicate, trust or company holding or paying or liable to pay any portion of the income of such registrant or purchaser, or by any partner, agent or official of any such person, partnership, syndicate, trust or company, of any letters, accounts, invoices, statements or other documents.

Production
of letters,
accounts, etc.

(3) If a registrant or purchaser fails or refuses to keep adequate books or accounts for the purpose of ascertaining

Records to
be kept

the amount of the tax payable by him or payable and collectable by him, as the case may be, the Minister may require such registrant or purchaser to keep such records and accounts as the Minister specifies. 1972, c. 147, s. 6 (1).

Penalty

(4) For every default in complying with subsection (1), (2) or (3), the person in default is guilty of an offence and on conviction is liable to a fine of \$25 for each day during which the default continues. R.S.O. 1970, c. 282, s. 10 (4).

Compliance of Minister, etc., to be proved by affidavit

(5) For the purposes of any proceedings taken under this Act, the facts necessary to establish compliance on the part of the Minister, as well as the failure of any person to comply with the requirements of this Act, are sufficiently proved in any court by affidavit of the Minister or any officer of the Ministry of Revenue. R.S.O. 1970, c. 282, s. 10 (5); 1972, c. 1, s. 1.

Inquiry as to amount of tax collectable or payable

(6) Any officer authorized by the Minister may make such inquiry as he considers necessary to ascertain the amount of any tax collectable by a registrant or any tax payable by a registrant under this Act, and for the purposes of such inquiry such officer has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 282, s. 10 (6); 1971, c. 49, s. 18.

R.S.O. 1980,
c. 411

Notice of assessment

(7) After examination of the return of a registrant, the Minister shall send by mail or by registered mail or deliver by personal service a notice of assessment to such registrant verifying or altering the amount of tax shown to be collectable by the registrant or to be payable by the registrant in his return, and any additional tax found to be collectable or payable, as the case may be, over the amount shown in the return shall be transmitted within one month from the date of mailing of the notice of assessment, whether or not an objection or appeal from the assessment is made or taken, and such additional tax shall bear interest at the rate prescribed by the regulations calculated from the last date prescribed for making the return to the date of transmission to the Treasurer.

Idem

(8) The Minister may at any time he considers reasonable assess any tax collectable or payable by a registrant or purchaser under this Act and shall send by mail or by registered mail or deliver by personal service a notice of assessment requiring the registrant or purchaser to transmit the tax assessed forthwith to the Treasurer.

(9) A registrant or purchaser shall, within one month of the date of an assessment made against him, transmit the tax claimed in the assessment whether or not an objection or appeal from the assessment is outstanding, and if a registrant or purchaser fails to transmit the tax at the time required, he shall pay to the Treasurer interest at the rate prescribed by the regulations upon the tax from the due date to the date of transmission to the Treasurer. Payment of tax assessed

(10) Where a registrant or purchaser objects to an assessment made under this section, he may, within ninety days from the day of mailing 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

(11) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. 1972, c. 147, s. 6 (2). Service

12.—(1) Upon receipt of a notice of objection, the Minister shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the registrant or purchaser, as the case may be, of his action by registered letter. 1972, c. 148, s. 7, *part*. Recon- sideration

(2) After the Minister has given the notification required by subsection (1), a person who has served notice of objection under section 11 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 (1) that the Minister has confirmed the assessment or reassessed. 1972, c. 148, s. 7, *part, revised*. Appeal

(3) 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

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

(5) 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. Content of notice of appeal

Reply to
notice of
appeal

(6) After the service on him of a notice of appeal under this section, the Minister shall with all due despatch 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

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

Disposition
of appeal

(8) 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

(9) 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

(10) 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 (7), 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.

Irregulari-
ties

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

Extension
of time

(12) The time within which a notice of objection under subsection 11 (10) or a notice of appeal under subsection (2) of this section is to be served may be extended by the Minister if applica-

tion for such extension is made before the time for service of the notice of objection or notice of appeal, as the case may be, has expired. 1972, c. 147, s. 7, *part*.

13.—(1) The Minister or Deputy Minister of Revenue shall determine the amount of the tax referred to in subsection 2 (8) or in subsection 3 (6) or (8) or in subsection 8 (5) or (6) from such information as is available to him and shall issue a certificate as to that amount. 1972, c. 147, s. 7, *part*; 1977, c. 18, s. 7 (1). Certificate to prove unpaid tax

(2) In any prosecution under subsection 2 (8) or under subsection 3 (6), (7) or (8) or under subsection 8 (5) or (6), 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 paid is *prima facie* evidence of the amount of tax that should have been collected or paid and of the authority of the person giving or making the certificate without any proof of appointment or signature. 1972, c. 147, s. 7, *part*; 1977, c. 18, s. 7 (2). Idem

(3) 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. Information may be for several offences

(4) 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. 1972, c. 147, s. 7, *part*. Remedies to be independent

14. The Minister may enlarge the time for making any return before or after the time for making it. R.S.O. 1970, c. 282, s. 11. Time for making return

15. Declarations and affidavits in connection with returns under this Act 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 a fee therefor. R.S.O. 1970, c. 282, s. 12. Declarations and affidavits

16.—(1) Every person who makes a false statement in any return or in any information made or furnished to the Minister under this Act is guilty of an offence and on conviction is False statements

liable to a fine of not more than \$1,000 or to imprisonment for not more than six months, or both. R.S.O. 1970, c. 282, s. 13.

Officers,
etc., of
corporations

(2) Any person who, being an officer, director or agent of a corporation, directed, authorized, assented to, acquiesced in or participated in the commission of any act that is an offence under this Act and for which the corporation would be liable for prosecution, 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. 1975, c. 10, s. 4.

Continuance
of liability

17. Notwithstanding any prior accounting or where no accounting has been made, the registrant continues to be liable for any tax that is collectable by him and for any tax that is payable by him and that has not been transmitted to the Treasurer. R.S.O. 1970, c. 282, s. 14.

Disposition
of fines;
penalties
payable on
demand

18. The fines imposed for offences under this Act shall be paid over to the Treasurer, and every penalty imposed by this Act is payable upon and in accordance with the demand of the Minister therefor. R.S.O. 1970, c. 282, s. 15.

When
information
to be laid

19. 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. 1972, c. 147, s. 7, *part*.

Recovery of
tax and
penalty

20.—(1) Upon default of transmission by a registrant of any tax collectable by him or of any tax or penalty payable by him or upon default of payment by any purchaser of any tax payable by him under this Act,

- (a) the Minister may bring an action for recovery thereof in any court of competent jurisdiction 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; or
- (b) the Minister may issue a warrant and direct it to the sheriff of any county or district in which any property of the registrant or purchaser is located or situate, for the amount of the tax, interest and penalty, or any of them owing by the registrant or purchaser, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court. 1972, c. 147, s. 8, *part*; 1978, c. 78, s. 6 (1).

(2) When the Minister has knowledge or suspects that a ^{Garnishment} 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.

(3) The receipt of the Treasurer for moneys paid as re- ^{Idem}quired under this section is a good and sufficient discharge of the original liability to the extent of the payment.

(4) Every person who has discharged any liability to a ^{Liability of debtor} 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 he was required under this section to pay to the Treasurer, whichever is the lesser.

(5) 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 and style other than his own name, the registered or other letter under subsection (2) 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. ^{Service of garnishee}

(6) Where persons who are or are about to become in- ^{Idem}debted 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 (2) 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.

(7) Subject to the *Wages Act*, where the Minister has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied. <sup>Garnishment of wages
R.S.O. 1980,
c. 526</sup>

and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally.

Failure
to remit

(8) Where any person, without reasonable excuse, has failed to remit to the Treasurer the moneys as required under this section, the Minister may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit. 1978, c. 78, s. 6 (2).

Investi-
gations

21.—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act or the regulations may at all reasonable times enter and examine any motor vehicle containing fuel or 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 under this Act or the regulations, and may,

- (a) audit or examine the books, records, accounts, vouchers, letters, telegrams or other documents that relate or may relate either to the information that is or should be in the books or records or to the amount of tax that is or should be collected, payable or remitted under this Act or the regulations;
- (b) examine any fuel or motor vehicle or 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 any inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act or that should be remitted or collected under this Act or the regulations;
- (c) require a purchaser, retailer, wholesaler, importer, registrant or an operator of a motor vehicle liable to collect or pay or considered possibly liable to collect or pay tax under this Act or, if such purchaser, retailer, wholesaler, importer, registrant or operator 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 registrant or in the motor vehicle of such operator 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.

(2) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, by registered letter or by a demand served personally, require from any purchaser, retailer, wholesaler, importer, registrant, or from the owner or operator of a motor vehicle, or if any of them is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof, ^{Idem}

- (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.

(3) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, 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, or any motor vehicle containing fuel, 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 take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings. ^{Idem}

(4) The Minister may, by registered letter or by a demand that is served personally, require the production, under oath

Production
of evidence
to prove
tax payable
by another
person

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 registrant, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

Copies

(5) 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.

Compliance

(6) 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.

Idem

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

Offence

(8) Every person who contravenes this section or who fails to provide any information or make any return requested under this section is guilty of an offence and on conviction is liable to a fine of \$50 for each day during which the offence continues. 1977, c. 18, s. 8, *part*.

Information on bulk shipments of fuel

22.—(1) Every person carrying fuel in a motor vehicle that is equipped to carry more than 200 litres of fuel in a tank other than the fuel tank of the motor vehicle, and the operator of every such motor vehicle, shall, when requested by the Minister or any person authorized by the Minister, provide any or all of the following information,

- (a) the name and address of any person from whom the fuel being carried was obtained, and the name and address of any person to whom the fuel so obtained was delivered or is to be delivered;
- (b) the quantity of fuel delivered or to be delivered to any person; or

- (c) the use or intended use, if known, to be made of any fuel delivered or to be delivered from such motor vehicle,

and where no written evidence substantiating such information is available at the time that the request is made, the person to whom the request is made shall orally supply the information and may be required to certify in writing any of such oral statements. 1977, c. 18, s. 8, *part*; 1978, c. 78, s. 7.

(2) Where the information required to be furnished by subsection (1) is not given, or where the information that is furnished is false, the motor vehicle may be detained by the Minister until the information is provided or until the true information is provided, and during any such detention, the Crown shall not be liable for any damages to the motor vehicle or to its owner or operator or otherwise that may occur or be alleged to occur by reason of the detention of the motor vehicle pending the furnishing of the information required by subsection (1) or the furnishing of accurate information as required by subsection (1). 1977, c. 18, s. 8, *part*.

Detention
of motor
vehicle

23. Where, owing to special circumstances, it is considered inequitable that the whole amount of interest payable under this Act be paid, the Minister may exempt a person from payment of the whole or any part of the interest. 1975, c. 10, s. 5.

Relief from
interest

24.—(1) The Minister may refund the full tax imposed by this Act where the fuel on which the tax was paid was, in the opinion of the Minister, used exclusively,

Refunds

- (a) in the business of farming or commercial fishing; or
- (b) in any business, industry or institution for any business, industrial or institutional purpose that is not prescribed by regulation to be excluded from the application of this section,

but no refund of tax may be made with respect to fuel used to operate a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*, or used in any motor vehicle operated or intended to be operated principally for the pleasure or recreation of its owner or operator, or with respect to any fuel purchased prior to the 8th day of April, 1975 by the person claiming a refund under this section.

R.S.O. 1980,
c. 198

(2) A refund under this Act shall not be made unless an application therefor, accompanied by properly received

Application
for refund

invoices, is received by the Minister within two years of the date when the tax a refund of which is claimed was paid, and there shall be furnished to the Minister such evidence as he requires to satisfy him of the entitlement of the applicant to the refund claimed.

Over-
payments

(3) Where a registrant has transmitted to the Treasurer an amount in excess of the tax collectable by him under this Act and of the taxes, interest and penalties payable by him under this Act, such excess amount shall be refunded to him upon his application therefor made within two years of the date of his payment of such excess amount, and where any overpayment of tax by a registrant or a purchaser is the result of an assessment or reassessment under this Act or of the final decision of a court in proceedings commenced under section 12, such overpayment shall, notwithstanding subsection (2), be refunded without an application therefor.

Exception

(4) Notwithstanding subsections (1), (2) and (3), the provisions of this Act and the regulations in force prior to the 8th day of April, 1975 with respect to refunds of tax imposed by this Act continue to apply to or with respect to tax paid under this Act on fuel purchased prior to that date. 1975, c. 10, s. 6.

Application
of section

25.—(1) The provisions of this section apply notwithstanding any provision of this Act to the contrary.

Interpre-
tation

(2) In this section, “authorized registrant” means a registrant whom the Minister authorizes in writing to receive certificates of exemption issued under this section, and no person who is not an authorized registrant shall receive or act on any such certificate of exemption.

Certificate of
exemption

(3) Where the Minister is satisfied that fuel to be acquired by a purchaser will be used exclusively by that purchaser in the business of farming or commercial fishing and where the Minister has determined to make a full refund of the tax imposed by this Act on fuel so used by such a purchaser, the Minister may issue to such purchaser a certificate of exemption that shall show the date when the certificate is issued, the name and address of the person to whom the certificate is issued and a number differentiating that certificate from other similar certificates, and such certificate may contain restrictions limiting the time during which it remains valid, the use to which any fuel may be put that is purchased through the use of the certificate, and such other restrictions as the Minister considers necessary.

Exemption
for purchaser

(4) Any purchaser to whom a certificate of exemption is issued may, by complying with the terms of the certificate

and after delivering the certificate up to an authorized registrant, purchase from that authorized registrant fuel exempt from the tax otherwise payable under this Act, and such purchaser is not liable to pay the tax imposed by this Act unless he uses such fuel in a manner that is not authorized by the certificate.

(5) An authorized registrant who sells or supplies fuel to a purchaser who is acquiring such fuel pursuant to a certificate of exemption issued under this Act shall not, while the certificate remains valid, collect from such purchaser any tax on any fuel that is purchased from such authorized registrant on the authority of a certificate of exemption delivered over to him, but every authorized registrant who having received a certificate of exemption from a purchaser sells or supplies fuel on which he does not collect the tax imposed by this Act because of the purchaser's possessing a certificate of exemption shall provide to the Minister the information that an authorized registrant is required by the regulations to provide.

When
authorized
registrant
not to collect
tax

(6) Every authorized registrant who receives a certificate of exemption from a purchaser shall keep in his records the particulars shown on the certificate, and shall send the certificate to the Minister.

Certificate
to be
recorded

(7) Any person who knowingly contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$10,000.

Offence

(8) Where an authorized registrant or a purchaser holding a certificate of exemption issued under this section is found guilty of an offence under subsection (7), the Minister may cancel the authorization of such authorized registrant or revoke the certificate of such purchaser, as the case may be, and where the Minister determines that he will no longer make a full refund to a purchaser holding a certificate of exemption issued under this section, the Minister shall revoke the certificate and shall give notice of such revocation to the purchaser and to the authorized registrant to whom the purchaser has delivered over the certificate of exemption. 1972, c. 147, s. 10.

Revocation
of certificate

26.—(1) Subject to subsection (2), no person employed by the Government of Ontario shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act.

Information
to be secret

Communica-
tion of
information
to other
jurisdictions

(2) The Minister may,

- (a) communicate or allow to be communicated information obtained under this Act; or
- (b) allow inspection of or access to any written statement furnished under this Act,

to any person employed by the Government of Canada or any province of Canada provided that the information and written statements obtained by such government for the purpose of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Minister, and provided that the information and written statements will not be used for any purpose other than the administration or enforcement of a federal or provincial law that provides for the imposition of a tax.

Offence

(3) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 282, s. 19.

Inter-
provincial
settlement
of competing
tax claims

27. 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 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 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. 78, s. 8.

Remedies
for recovery
of tax and
penalties

28. The use of a remedy does not bar or affect any other remedy, and the remedies provided by this Act for the recovery and enforcement of payment or collection, or both, of any tax or penalty, or both, imposed by this Act are in addition to other remedies existing by law, and no action or other proceeding in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise. R.S.O. 1970, c. 282, s. 20.

29.—(1) The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) excluding products from this Act;
- (b) exempting any class of persons from the payment of the tax imposed under this Act;
- (c) refunding any tax or any portion thereof paid under this Act to any purchaser or class of purchasers and prescribing the records and material to be furnished upon application for a refund;
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act;
- (e) prescribing purposes for which fuel is used that are excluded from the application of section 24;
- (f) exempting from a part or all of the tax imposed by this Act fuel that will be used by specified persons or in a specified manner or in a specified type of machinery or class of industry, and relieving registrants from their obligation of collecting a part or all of the tax on fuel so used;
- (g) prescribing additional information to be contained in any certificate of exemption issued under this Act, and attaching additional conditions to the use of any such certificate;
- (h) providing for the furnishing to the Minister by registrants of information relating to the sale or delivery by them of fuel that is exempt from the tax imposed by this Act;
- (i) prescribing rates of interest payable under this Act;
- (j) prescribing records to be kept by registrants, information to be shown in a return to be delivered by a registrant, and prescribing times or periods of time, in lieu of those mentioned in section 9, at which, or with respect to which, returns shall be delivered by any registrant or class of registrants;
- (k) prescribing, for the purpose of subsection 2 (3), any manner of disposing of or consuming fuel;
- (l) providing for the calculation and payment of interest on amounts paid in excess of the tax

imposed by this Act, and prescribing the rate of such interest;

- (m) providing for the refund in special circumstances of the whole or any part of the tax imposed by this Act, and prescribing the terms and conditions under which such refund may be made;
- (n) 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. R.S.O. 1970, c. 282, s. 21; 1972, c. 147, s. 11; 1975, c. 10, s. 7.

Idem

(2) The Lieutenant Governor in Council may make regulations establishing a system of registration for the purposes of this Act, and,

- (a) requiring persons who buy, sell, deal in, consume or refine any fuel, including fuel for the heating of homes and buildings, to become registrants under this Act for the purpose of accounting for, collecting or facilitating the administration of the tax imposed by this Act;
- (b) prescribing classes of registrants, the conditions and restrictions affecting any prescribed class of registrant, and the method of collecting or paying the tax imposed by this Act to be followed by any prescribed class of registrant;
- (c) prescribing the information, returns and records to be given, made or kept by any registrant or class of registrants;
- (d) requiring the registration of the operators of commercially-used motor vehicles that consume or carry fuel and that are not vehicles operated exclusively for pleasure or recreation;
- (e) exempting any person or class of persons from the application of subsection 2 (2).

Idem

(3) The Minister may make regulations prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.

Idem

(4) A regulation, other than a regulation made under subsection (2), is, if it so provides, effective with reference to a period before it was filed. 1977, c. 18, s. 9.