1980

c 454 Retail Sales Tax Act

Ontario
CHAPTER 454
Retail Sales Tax Act

1. In this Act, "admission" includes entry to a place of amusement where any charge is made for such entry and any entry that is provided to a place of amusement as a promotional distribution; 1973, c. 23, s. 1 (1); 1978, c. 6, s. 1 (1).

2. "consumer" or "user" means a person who,

(a) utilizes or intends to utilize in Ontario tangible personal property or a taxable service for his own consumption or for the consumption of any other person at his expense, or

(b) utilizes or intends to utilize in Ontario tangible personal property or a taxable service on behalf of or as the agent for a principal who desired or desires to so utilize such property or taxable service for consumption by the principal or by any person at the expense of the principal; R.S.O. 1970, c. 415, s. 1, par. 2.

3. "consumption" includes the use, and the incorporation into any structure, building or fixture, of tangible personal property including that manufactured by the consumer or further processed or otherwise improved by him and includes the provision by way of promotional distribution of any tangible personal property or taxable service; R.S.O. 1970, c. 415, s. 1, par. 3; 1978, c. 6, s. 1 (2).

4. "fair value" includes,

(a) the price for which the tangible personal property or the taxable service was purchased, including the value in terms of Canadian money of services rendered and things exchanged and other considerations accepted by the vendor or person from whom the tangible personal property passed or taxable services were rendered as the price or on
account of the price of the tangible personal property purchased or taxable service received,

(b) the cost of, or charges for, customs, excise, mailing, handling, delivery or transportation, whether or not such are shown separately in the books of the vendor or on any invoices or in the computation of the sale price,

(c) the cost of installation where the contract under which the property is acquired provides for the acquisition of the property and its installation for one consideration, and

(d) the cost, including materials, labour and manufacturing overhead, of tangible personal property produced by the vendor or person for his own consumption or use,

except that, in the case of either a mobile home or a modular home sold for the first time at a retail sale after the 6th day of April, 1976, “fair value” means the taxable value of such mobile home or modular home, as the case may be; R.S.O. 1970, c. 415, s. 1, par. 4; 1976, c. 23, s. 1 (1); 1978, c. 6, s. 1 (3).

5. “Minister” means the Minister of Revenue; R.S.O. 1970, c. 415, s. 1, par. 5.

6. “mobile home” means a vehicular portable structure that,

(a) is defined to be a mobile home, a multiple section mobile home or a swing out and expandable room section mobile home for the purposes of the Z240 series of standards prescribed by the Canadian Standards Association, and

(b) complies with the requirements for a mobile home, multiple section mobile home or swing out and expandable room section mobile home contained in that series of standards, and bears the seal of the Canadian Standards Association attesting to such compliance;

7. “modular home” means a house that is intended for residential purposes and that is constructed by assembling manufactured modular units each of
which comprises at least one room or living area, has been manufactured to comply with the A277 series of standards prescribed by the Canadian Standards Association, and bears the seal of that Association attesting to such compliance; 1976, c. 23, s. 1 (2).

8. “person”, in addition to its meaning in the Interpretation Act, includes Her Majesty in right of Ontario, a partnership, a municipal corporation; including a district, metropolitan or regional municipal corporation, or a local board thereof as defined in the Municipal Affairs Act, and any board, commission or authority established under any Act of the Legislature; 1973, c. 23, s. 1 (2).

9. “place of amusement” means an amusement park or a premises or place, whether enclosed or not, where a cinematograph or moving picture machine or similar apparatus is operated, or where a theatrical performance, carnival, circus, side show, menagerie, concert, rodeo, exhibition, horse race, athletic contest or other performance or entertainment is staged or held or where facilities for dancing are provided to the public with the service of liquor, beer or wine and to which admission is granted upon payment of a price of admission through the sale of tickets or otherwise; R.S.O. 1970, c. 415, s. 1, par. 7; 1977, c. 13, s. 1.

10. “price of admission” means the charge made to a purchaser for entry into a place of amusement; 1973, c. 23, s. 1 (3).

11. “promotional distribution” means the provision by any person to others of any tangible personal property, taxable service or admission to a place of amusement (other than any provision thereof that is prescribed by the Minister to be excluded from the application of this paragraph) that is, in the opinion of the Minister, provided for any one or more of the following purposes:

(a) to promote or encourage attendance at, or patronage of, any place of amusement, business, undertaking or enterprise,

(b) to describe, or to promote or encourage the purchase, consumption or use of, any goods, wares, services or property of any kind,
(c) to furnish to any person any directory, listing or compilation of persons, places, prices, services, commodities, places of business or users of any service,

(d) for any function, use or purpose prescribed by the Minister to be a promotional distribution;

12. "promotional distributor" means any person who is a resident of, or carries on business in, Ontario and who, by way of promotional distribution, provides or causes to be provided to any person in Ontario any tangible personal property, taxable service or admission to a place of amusement the full fair value or full price of admission of which is not specifically charged to, and required to be paid by, the person to whom such tangible personal property, taxable service or admission to a place of amusement is provided; 1978, c. 6, s. 1 (4).

13. "purchaser" means a consumer or person who acquires tangible personal property anywhere, or who acquires or receives a taxable service at a sale in Ontario, for his own consumption or use, or for the consumption or use in Ontario of other persons at his expense, or on behalf of or as agent for a principal who desires to acquire such property or service for consumption or use in Ontario by such principal or other persons at his expense, and includes a person who, at his expense, purchases admission to a place of amusement for himself or for another person and includes also a promotional distributor to the extent that the full fair value or full price of admission of any tangible personal property, taxable service or admission to a place of amusement provided by way of promotional distribution exceeds any payment specifically made therefor by the person to whom such property, service or admission is so provided; 1976, c. 82, s. 1 (2); 1978, c. 6, s. 1 (5).

14. "registered consumer" means a person who brings or imports into Ontario tangible personal property for his own use or consumption that has a fair value exceeding $100 in each of two months or more during a calendar year and who holds a valid consumer’s permit;

15. "regulations" means the regulations made under this Act;
16. "retail sale" means a sale to a purchaser for the purpose of consumption or use and not for resale; R.S.O. 1970, c. 415, s. 1; pars. 10-12.

17. "sale" means,

(a) any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, including a sale on credit or where the price is payable by instalments, or any other contract whereby at a price or other consideration a person delivers to another person tangible personal property or renders to another person a taxable service,

(b) the production, fabrication, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, processing, printing or imprinting,

(c) the furnishing and distribution of tangible personal property for a consideration by social clubs or fraternal organizations to their members or others,

(d) the furnishing, preparation or service for a consideration of food, meals or drinks,

(e) a transaction whereby the possession of tangible personal property is transferred but the vendor retains the title as security for payment of the price,

(f) a transfer for a consideration of the title to or possession of tangible personal property that has been produced, fabricated, printed or imprinted to the order of the purchaser,

(g) the production, fabrication, processing, printing or imprinting of tangible personal property or the production of a taxable service by a person for his own consumption or use when that person furnishes either directly or indirectly the materials and labour used in such production, fabrication, processing, printing or imprinting,

(h) the provision by way of promotional distribution of any tangible personal property or taxable service,
but "sale" does not include the transfer of title to or possession of tangible personal property to the shareholders of a corporation as the result of the winding up or dissolution of the corporation; R.S.O. 1970, c. 415, s. 1, par. 13; 1975, c. 9, s. 1 (1); 1976, c. 82, s. 1 (3); 1978, c. 6, s. 1 (6).

18. "storage" includes any keeping or retention in Ontario for any purpose except retail sale or subsequent use outside Ontario of tangible personal property purchased from a vendor, but does not include the keeping, retaining or exercising of any right or power over tangible personal property shipped or brought into Ontario for the purpose of transporting it subsequently outside Ontario or for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property to be transported outside Ontario and thereafter used solely outside Ontario; R.S.O. 1970, c. 415, s. 1, par. 14.

19. "tangible personal property" means personal property that can be seen, weighed, measured, felt or touched, or that is in any way perceptible to the senses, and includes natural gas, manufactured gas, and any chattel that is a fixture and for the use, possession or enjoyment of which a fee, charge or rent is paid that is not included in any fee, charge or rent paid for possession or occupation of the real property to which the chattel is affixed; 1976, c. 82; s. 1 (4).

20. "tax" includes all penalties and interest that are or may be added to a tax under this Act; R.S.O. 1970, c. 415, s. 1, par. 16.

21. "taxable service" means,

(a) telecommunication services of all kinds, including without restricting the generality of the foregoing, telephone and telegraph services, community antenna television and cable television, transmissions by microwave relay stations or by satellite, and pay television, but not including public broadcasting services that are broadcast through the air for direct reception by the public without charge, or
(b) transient accommodation; R.S.O. 1970, c. 415, s. 1, par. 17; 1979, c. 27, s. 1 (1).

22. “taxable value” means,

(a) in the case of a mobile home, one-half of the sale price thereof that is charged to the person acquiring the mobile home as a residence, if such price is determined by including therein all charges for delivery of the mobile home in accordance with the terms of such sale, by excluding therefrom the retail sale price of any furniture or appliance that is not permanently attached to, and part of, the interior structure of the mobile home, and by excluding therefrom any charges for the installation or connection of the mobile home on the site to which it is delivered, or

(b) in the case of a modular home, an amount equal to 55 per cent of the sale price of such modular home on the sale thereof by its manufacturer to a builder, or where the manufacturer is the consumer of such modular home, 55 per cent of the sale price normally charged by the manufacturer on the sale thereof to a builder,

but such taxable value applies only with respect to the first retail sale of a mobile home or a modular home after the 6th day of April, 1976; 1976, c. 23, s. 1 (7).

23. “telecommunication” means any transmission, emission or reception of signs, signals, writing, images or sound or intelligence of any nature by wire, radio, visual or other electromagnetic or laser-based system, but does not include any transmission, emission or reception or class thereof that is prescribed by the Minister to be excluded for the purpose of this paragraph; 1979, c. 27, s. 1 (2).

24. “transient accommodation” means the provision of lodging in hotels, motels, hostels, apartment houses, lodging houses, boarding houses, clubs and other similar accommodation, whether or not a membership is required for the lodging, but does not include lodging let for a continuous period of one month or more or lodging in a lodging house.
rooming house, or boarding house, if such house has accommodation for fewer than four tenants; R.S.O. 1970, c. 415, s. 1, par. 18.

25. “Treasurer” means the Treasurer of Ontario and Minister of Economics; 1975, c. 9, s. 1 (3).

26. “use” includes storage and the exercise of any right or power over tangible personal property incidental to the ownership of that property, but it does not include the sale of that property at a retail sale or the keeping, retaining or exercising of any right or power over tangible personal property shipped or brought into Ontario for the purpose of transporting it subsequently outside Ontario for use thereafter solely outside Ontario or for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property to be transported outside Ontario and thereafter used solely outside Ontario;

27. “vendor” means a person who, in the ordinary course of his business,

(a) sells tangible personal property,

(b) sells or renders a taxable service, or

(c) operates a place of amusement. R.S.O. 1970, c. 415, s. 1, pars. 19, 20.

2. —(1) Every purchaser of tangible personal property, except the classes thereof referred to in subsection (2), shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof, computed at the rate of 7 per cent of the fair value thereof. R.S.O. 1970, c. 415, s. 2 (1); 1973, c. 23, s. 2 (1).

(2) Every purchaser of the following classes of tangible personal property shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof computed at the rate of 10 per cent of the fair value thereof:

1. liquor, beer or wine;

2. prepared meals sold at a price of over $6.00. R.S.O. 1970, c. 415, s. 2 (2); 1977, c. 13, s. 2 (1).
(3) Every purchaser of a taxable service shall pay to Her Majesty in right of Ontario a tax in respect thereof computed at the rate of 7 per cent of the fair value thereof. R.S.O. 1970, c. 415, s. 2 (3); 1973, c. 23, s. 2 (3).

(4) Every purchaser of admission to a place or places of amusement shall pay to Her Majesty in right of Ontario a tax computed at the rate of 10 per cent of the price of admission where the price of admission exceeds $3.50. 1977, c. 13, s. 2 (2); 1979, c. 27, s. 2 (1).

(5) A purchaser shall pay the tax imposed by this Act at the time of the sale. R.S.O. 1970, c. 415, s. 2 (5).

(6) Notwithstanding subsection (5) and section 10, where a purchaser,

(a) rents or leases from any person any taxable service at a sale in Ontario; or

(b) acquires tangible personal property at a sale that is the lease or rental to him of such tangible personal property without provision for the transfer to him of title thereto, or with the provision of such transfer only upon the exercise of an option or similar right to acquire such tangible personal property,

the tax imposed by this Act shall be computed, paid and collected on the due date of, and on the fair value of the consideration given in payment of, each rental payment by or on behalf of the purchaser in respect of the lease or rental of such taxable service or tangible personal property, and tax shall, in addition, be computed, paid and collected at the time of, and on the fair value of the consideration given in payment for, each of the obtaining of any option or similar right to purchase the tangible personal property leased or rented or the exercising of any such option or similar right. 1976, c. 82, s. 2; 1979, c. 27, s. 2 (2).

(7) Where the Minister considers it necessary or advisable, he may determine the amount of any price of admission, or the fair value of any tangible personal property or taxable service, for the purposes of taxation under this Act, and thereupon the price of admission, or fair value of such tangible personal property or taxable service, for such purpose shall be as so determined by him unless, in proceedings instituted by an appeal under section 23, it is established that the determination is unreasonable. 1977, c. 13, s. 2 (3).
(8) Subject to subsection (9), if a person sells any tangible personal property at a retail sale in Ontario to a person who alleges that he is not purchasing it for consumption or use in Ontario, he shall nevertheless require such person to pay the tax, but such payment shall be refunded on receipt by the Minister of satisfactory evidence that the tax was wrongfully paid. R.S.O. 1970, c. 415, s. 2 (7); 1974, c. 7, s. 1 (1); 1975, c. 9, s. 2 (2).

(9) Where a person has paid an amount under this Act as tax that is not payable as tax under this Act, such amount shall be refunded if, within three years following the date of payment of such amount, an application for the refund is made to the Minister and it is established within such three years to the satisfaction of the Minister that the amount that may be refunded was not payable as tax under this Act, and where the amount shown not to have been payable as tax under this Act was paid in the course of performing a contract under which a party to the contract, other than the person who paid such amount, reimbursed the person for such amount so paid, the amount that may be refunded under this subsection may be paid to such party. 1975, c. 9, s. 2 (3), part; 1979, c. 27, s. 2 (3).

(10) Where, as the result of an assessment or reassessment or the final decision of a court in proceedings commenced under section 23, the person assessed or reassessed or the appellant, as the case may be, has overpaid the tax payable under this Act, the amount of such overpayment shall be refunded to him notwithstanding the limitations contained in subsection (9). 1975, c. 9, s. 2 (3), part.

(11) Where, within three years following the payment of an amount under this Act as tax that is not payable as tax, the person who paid such amount informs the Minister that a claim for a refund of such amount will be made, and further provides to the Minister evidence of the nature of the claim and an explanation satisfactory to the Minister of why the full particulars of the claim cannot be furnished in the proper form within such three-year period, the Minister may extend by not more than six months the three-year period mentioned in subsection (9). 1975, c. 9, s. 2 (3), part; 1979, c. 27, s. 2 (4).

(12) Notwithstanding subsection (9), a vendor may, in the circumstances described in clauses (a) to (d), refund to a purchaser from whom he has collected tax, the whole or a part of such tax, as the case requires, if the refund is made within three years following the sale with respect to which the tax being refunded was collected, and if,
(a) the tax payable and collected, or the purchase price charged, has been overstated by reason of a clerical or arithmetical error in computation;

(b) the purchaser acquired from the vendor the goods for the tax on which a refund is sought for the purpose of reselling such goods, and after the sale and before the refund is made provides the vendor with a proper purchase exemption certificate with respect to the goods;

(c) the purchase price agreed to at the time of the sale is subsequently reduced,

(i) by reason of the purchaser's return of all or part of the goods purchased and the vendor's agreeing to refund part or all of the purchase price therefor,

(ii) by reason of damage to the goods in the course of delivery, the discovery of a defect in the quality of the goods sold, or the failure of the goods to answer fully the purpose for which they were purchased, provided that, in any such case, the goods are retained in full by the purchaser, or

(iii) by reason of any discount for prompt payment agreed to at the time of sale;

or

(d) the refund made is with respect to a class of transactions prescribed by the Minister for the purpose of this subsection or has been authorized by the Minister in writing prior to the making of the refund,

and any refund made under this subsection may be deducted by the vendor making it from subsequent remittances of tax under this Act. 1976, c. 23, s. 2 (2), part; 1979, c. 27, s. 2 (5).

(13) Where the erroneous payment giving rise to a claim for a refund under subsection (9) or (10) is the result of a sale under a contract in which a party other than the applicant for the refund is the purchaser who should have paid the tax or any part thereof a refund of which is sought, and where such tax, had it been properly paid, can reasonably be considered to have been likely to form a part of the contract price that would have been charged to the person claiming the refund, the Minister may, notwithstanding sub-
section (9) or (10), determine by such method or formula as he considers appropriate the amount by which the payment sought to be refunded exceeds the tax that would have been properly payable in the performance of the contract, and shall refund only the amount of such excess so determined. 1976, c. 23, s. 2 (2), part.

(14) Every person who brings into Ontario or who receives delivery in Ontario of tangible personal property acquired by him for value for his own consumption or use, or for the consumption or use of other persons at his expense, or on behalf of, or as agent for, a principal who desires to acquire such property for the consumption or use by such principal or other persons at his expense, shall immediately report the matter in writing to the Minister and shall supply him with the invoice and all other pertinent information required by him in respect of the consumption or use of such property and at the same time shall pay to Her Majesty in right of Ontario the same tax in respect of the consumption and use of such property as would have been payable if the property had been purchased at a retail sale in Ontario at the time such tangible personal property is brought into Ontario or delivery thereof is received in Ontario. R.S.O. 1970, c. 415, s. 2 (9); 1976, c. 23, s. 2 (3).

(15) The tax imposed by this Act shall be calculated separately on every purchase and shall be computed to the nearest cent, and every fraction of less than one-half cent shall not be counted and every fraction of one-half cent or more shall be counted as one cent, but, where on the same occasion or as part of one transaction several items of tangible personal property are purchased, the total of the purchase shall be deemed to be one purchase for the purposes of this Act.

(16) Where tangible personal property subject to tax under this Act is accepted at the time of sale by a person or a vendor on account of the price of other tangible personal property sold, the purchaser shall pay a tax at the rate provided in subsection (1) calculated on the difference between the fair value of the property sold and the credit allowed for the tangible personal property accepted on account of the purchase price in trade.

(17) Where tangible personal property has been purchased exempt from the tax imposed by this Act, and the tangible personal property is subsequently put to a taxable use, the purchaser shall pay the tax imposed by this Act on the fair value of the tangible personal property at the time of change of use. R.S.O. 1970, c. 415, s. 2 (10-12).
3.—(1) No vendor shall sell any taxable tangible personal property or sell any taxable service or operate any place of amusement the price of admission to which is taxable unless he has applied for, and the Minister has issued to him, a permit to transact business in Ontario and the permit is in force at the time of such sale. 1975, c. 9, s. 3 (1).

(2) The Minister may,
   (a) refuse to issue a permit to any vendor; or
   (b) suspend or cancel the permit of any vendor if such vendor or any of his employees contravenes any of the provisions of this Act,

but, before a refusal, suspension or cancellation is made, the vendor shall be afforded an opportunity to appear before the Minister to show cause why the issuance of a permit should not be refused or why the permit should not be suspended or cancelled, as the case may be.

(3) Every application for a permit shall be made in the form prescribed by the Minister and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as is required, and the application shall be signed,
   (a) by the vendor, if a natural person;
   (b) in the case of an association or partnership, by a member or partner; or
   (c) in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application to which shall be attached the written evidence of his authority. R.S.O. 1970, c. 415, s. 3 (3, 4).

(4) A permit issued under subsection (1) is valid only for the vendor in whose name it is issued, and only for so long as the vendor therein named transacts business in Ontario or until the permit is suspended or cancelled, as the case may be.

(5) Every vendor shall keep at each location in Ontario where he transacts business a copy of the permit issued to him under subsection (1) and shall, upon the request of any purchaser, produce for such purchaser's inspection a copy of such permit. 1975, c. 9, s. 3 (2).

(6) Every vendor who fails to comply with any provision of this section is guilty of an offence against this Act. R.S.O. 1970, c. 415, s. 3 (7).
4.—(1) No person shall dispose of his stock through a sale in bulk to which the Bulk Sales Act applies without first obtaining a certificate in duplicate from the Minister that all taxes collectable or payable by such person have been paid or that such person has entered into an arrangement satisfactory to the Minister for the payment of such taxes or for securing their payment. R.S.O. 1970, c. 415, s. 4 (1); 1973, c. 23, s. 3; 1977, c. 13, s. 3 (1).

(2) Every person purchasing stock through a sale in bulk to which the Bulk Sales Act applies shall obtain from the person selling such stock the duplicate copy of the certificate furnished under subsection (1), and, if he fails to do so, he is responsible for payment to the Treasurer of all taxes collectable or payable by the person thus disposing of his stock through a sale in bulk. R.S.O. 1970, c. 415, s. 4 (2); 1977, c. 13, s. 3 (2).

5.—(1) The purchaser of the following classes of tangible personal property and taxable services is exempt from the tax imposed by this Act:

1. food products for human consumption, except candies, confections or soft drinks purchased for a price that exceeds 49 cents, or for a price that exceeds 49 cents and that is specified to be payable in the purchase of two or more items, packages, bags, cartons or containers thereof; 1979, c. 27, s. 3 (1).

2. any prepared meal the price of which neither exceeds $6.00 nor is included in the sale price of two or more prepared meals that are sold to one purchaser for a total sale price that exceeds $6.00; 1973, c. 23, s. 4 (1), part; 1977, c. 13, s. 4 (1).

3. all prepared meals the prices of which are included in the total sale price of two or more prepared meals that are sold to one purchaser and that are consumed by two or more people if the average price of all the prepared meals the prices of which are included in such total sale price is not more than $6.00 and if that average price is determined by dividing such total price by the number of people to whom was served a prepared meal the price of which was included in such total sale price and if the bill to the purchaser that contains such total sale price clearly shows the number of people to whom were served the prepared meals the prices of which were included in such total sale price; 1973, c. 23, s. 4 (1), part; 1977, c. 13, s. 4 (2).
4. gasoline taxed under the *Gasoline Tax Act*;
5. gasoline used by farmers or commercial fishermen on which refunds of tax are entitled to be granted or have been granted under the *Gasoline Tax Act*;
6. fuel taxed under the *Motor Vehicle Fuel Tax Act*;
7. fuel oil not taxed under the *Motor Vehicle Fuel Tax Act*;
8. coal;
9. coke;
10. wood, as defined by the Minister;
11. natural gas and manufactured gas, as defined by the Minister;
12. electricity for all purposes; 1980, c. 415, s. 5 (1), pars. 3-11.
13. ethyl alcohol or methyl alcohol that is sold and purchased as fuel to generate power by internal combustion in any engine, provided that such alcohol is delivered by the vendor thereof into the engine's fuel tank;
14. vehicles that are required to be licensed under the *Highway Traffic Act* and the energy to operate which is exclusively electrical energy or energy derived from the internal combustion of ethyl alcohol, methyl alcohol, natural gas or manufactured gas, but only if no part of the energy for the operation of the vehicle is derived from the internal combustion of any fuel taxed under the *Gasoline Tax Act* or the *Motor Vehicle Fuel Tax Act*; 1980, c. 22, s. 1 (1).
15. farm implements, farm machinery, farm equipment and repair parts, as defined by the Minister, that in his opinion are to be used by a person engaged in the business of farming; 1970, c. 415, s. 5 (1), par. 12.
16. trees, shrubs, bushes, seeds and seedlings, cut flowers and plants, bulbs from which plants or flowers may be grown, growing plants and flowers and the containers in which they are growing, but not any artificial plant, flower or tree; 1973, c. 23, s. 4 (2), part.
17. fertilizers, insecticides, fungicides, herbicides, rodenticides and combinations thereof;
18. fodder grain, mill and other agricultural feeds, as defined by the Minister;
19. paper twine, binder twine, baler twine, baler wire and barbed wire;
20. farm, hog and poultry fence, as defined by the Minister;


22. materials and equipment required for irrigation purposes, repairs to such equipment, and drainage tiles, when such materials, equipment or tiles are purchased by a person who, with respect to such purchase, provides to the vendor a written statement that such materials, equipment or tiles will be used exclusively in the business of farming by a person engaged in farming, and the statement shall be signed by the person engaged in farming and by whom such materials, equipment or tiles will be used; 1975, c. 9, s. 4 (1).

23. used clothing or used footwear or a combination thereof sold by a religious, charitable, benevolent or non-profit organization in one transaction the total consideration for which does not exceed $50;

24. personal hygiene and household products, as defined by the Minister, purchased for household use and not for use in any commercial, industrial or institutional establishment;

25. footwear, as defined by the Minister, the price of which does not exceed an amount determined by the Minister; 1974, c. 7, s. 2 (1).

26. aircraft, and parts, equipment or repairs for such aircraft, that meet such requirements as are prescribed by the Minister and that are used by a person approved as a carrier of goods or passengers under the Aeronautics Act (Canada), or regulations made thereunder, to provide such class or classes of air services as are prescribed by the Minister;

27. street flushers, street sweepers and fire-fighting vehicles, as defined by the Minister, and purchased for the exclusive use of a municipality, university or public hospital at a price of more than $1,000 per vehicle;

28. a mobile home within the meaning of this Act that has been occupied as a residential dwelling and that has previously been sold at a retail sale in Ontario made in good faith and for valuable consideration; 1976, c. 23, s. 3 (3).

29. materials or equipment that are used for the conservation of energy and that are,
(a) thermal insulation materials, as defined by the Minister, that are sold primarily to insulate buildings and that are not primarily for a use prescribed by the Minister to be excluded from the exemption conferred by this paragraph,

(b) storm windows and storm doors, as defined by the Minister,

(c) heat pumps for use principally to provide heat in the heating system of a building,

(d) heat recovery units or devices for extracting heat from exhaust air or waste water to recover energy,

(e) units or chillers that are designed for use as part of an air-conditioning system and for the recovery and redistribution of heat when such units or chillers meet the conditions and specifications prescribed by the Minister,

(f) solar cells to be used to produce directly from sunlight electricity to charge batteries,

(g) solar furnaces, panels and tubes specially designed to collect and convert solar energy into heat for use in a solar heating system,

(h) windmills and wind-powered generators that produce mechanical or electrical energy, and pumps and generators specially designed for use directly with such devices,

(i) timer-controlled thermostats for heating systems in buildings and automatic timer controls for electrical equipment,

(j) wood-burning stoves and wood-burning furnaces, or

(k) wind deflectors for trucks; 1977, c. 13, s. 4 (3), part; 1978, c. 6, s. 2 (1); 1980, c. 22, s. 1 (2).

30. tangible personal property that is prescribed by the Minister for the purpose of this paragraph and that is purchased by a vendor to be consumed by him in the provision of transient accommodation; 1977, c. 13, s. 4 (3), part.

31. natural water, including ice and steam; R.S.O. 1970, c. 415, s. 5 (1), par. 25.

32. soil, clay, sand, gravel and unfinished stone; 1973, c. 23, s. 4 (3).
33. boats, fishing nets and other fishing apparatus utilized in catching fish for human consumption, purchased by a *bona fide* commercial fisherman for use solely in his trade, and repairs to such boats, fishing nets or other fishing apparatus;

34. vessels of more than 500 tons gross;

35. drugs and medicines when sold on the prescription of a physician, dentist or veterinarian; R.S.O. 1970, c. 415, s. 5 (1), pars. 27-29.

36. artificial limbs and any prosthetic appliance or equipment as defined by the Minister; R.S.O. 1970, c. 415, s. 5 (1), par. 30; 1973, c. 23, s. 4 (4).

37. orthopaedic appliances;

38. equipment designed solely for the use of blind persons, cripples or chronic invalids;

39. hearing aids;

40. dentures and dental appliances;

41. optical appliances when sold on the prescription of a physician or an optometrist;

42. equipment, as defined by the Minister, and purchased in good faith for use exclusively and not for resale by a hospital that is approved as a public hospital under the *Public Hospitals Act* or that is established under the *Community Psychiatric Hospitals Act* or by a sanatorium as defined under the *Sanatoria for Consumptives Act* or by The Ontario Cancer Treatment and Research Foundation, and repairs to such equipment; R.S.O. 1970, c. 415, s. 5 (1), pars. 31-36.

43. dies, jigs, product-holding fixtures, moulds and patterns for any of them, tools attached to production machinery, and explosives and refractory materials, all as defined by the Minister, and expended or used up in the process of manufacturing tangible personal property for sale or use; 1975, c. 9, s. 4 (2).

44. materials (except grease, lubricating oil or fuel for use in internal combustion engines) that are purchased to be used up or expended by a manufacturer or by a producer directly in,
(a) the manufacture or production of tangible personal property or in the research or development by such manufacturer or producer of either,

(i) goods for his own manufacture or production or for the manufacture or production of others, or

(ii) manufacturing or production processes for his use or the use of others,

(b) the detection, measurement, prevention, treatment, reduction or removal of pollutants in air, water or soil that are attributable to manufacturing or producing operations, or

(c) a manufacturing or production process prescribed by the Minister for this clause and when the materials so used up or expended are prescribed by the Minister for the purpose of this clause; 1976, c. 82, s. 3(1), part; 1980, c. 22, s. 1 (3).

45. machinery or equipment purchased for the use of a manufacturer, or for the use of a producer, if such machinery or equipment is,

(a) to be used directly in the manufacture or production of tangible personal property or is to be used directly in, and exclusively for, the research or development by such manufacturer or producer of either,

(i) goods for his own manufacture or production or for the manufacture or production of others, or

(ii) manufacturing or production processes for his use or the use of others,

(b) to be used by such manufacturer or producer directly in the detection, measurement, prevention, treatment, reduction or removal of pollutants in air, water or soil that are attributable to manufacturing or producing operations,

(c) to be used by such manufacturer or producer to carry away refuse or waste from machinery or equipment used directly in the manufacture or production of tangible personal property, or to be used to exhaust or expel dust or noxious fumes produced in the manufacturing
or producing operations of such manufacturer or producer,

(d) a gasoline-powered or diesel-powered self-propelled truck mounted on rubber-tired wheels that is not operated on the highway and that is used exclusively at mines or quarries,

(e) a tractor (other than a highway truck tractor) powered by an internal combustion engine, a logging wagon, logging sled, logging car or logging crane, a captive balloon with a volume of 150,000 cubic feet or more, or wire rope, blocks and tackle, or machinery, and is used exclusively in logging operations including the removal of the log from the stump to the skidway, log dump, or to a common or other carrier,

(f) pipes, tubing, casings, fittings, couplings, thread protectors and nipples therefor, and drilling pipe that are commonly known as "oil country goods" and are used in connection with natural gas or oil wells, or

(g) machinery, equipment and apparatus, including wire rope, drilling bits, drilling mud and seismic shot-hole casing, to be used in the exploration for, or in the discovery or development of, petroleum, natural gas or minerals,

but the exemption conferred by this paragraph does not apply to any type or class of machinery or equipment prescribed by the Minister to be excluded from this paragraph, or to any machinery or equipment used in any manner, process, industry, enterprise or by any person prescribed by the Minister as not entitled to the exemption conferred by this paragraph; 1976, c. 82, s. 3 (1), part; 1980, c. 22, s. 1 (4).

46. tangible personal property purchased for the purpose of being processed, fabricated or manufactured into, attached to, or incorporated into, tangible personal property for the purpose of sale or use;

47. tangible personal property to be shipped by the vendor for delivery outside Ontario, including ships' stores delivered to commercial vessels of more than 500 tons gross that normally operate in extra-
48. the occupancy of transient accommodation during the period commencing on the 8th day of March, 1978 and ending with the 31st day of December, 1981, provided that occupancy for any period of twenty-four hours or less that includes any part of the 7th day of March, 1978 is not entitled to the exemption conferred by this paragraph, and occupancy for any period of twenty-four hours or less that includes any part of the 31st day of December, 1981, is entitled to the exemption conferred by this paragraph; 1978, c. 6, s. 2 (2), part; 1979, c. 27, s. 3 (2); 1980, c. 70, s. 1 (1).

49. prepared meals served during the period commencing on the 8th day of March, 1978 and ending with the 31st day of December, 1981, if such prepared meals are provided together with transient accommodation in the said period for one charge for both meals and accommodation under the system commonly known as "the American Plan" or "Modified American Plan"; 1978, c. 6, s. 2 (2), part; 1979, c. 27, s. 3 (3); 1980, c. 70, s. 1 (2).

50. children's clothing as the Lieutenant Governor in Council may determine by regulation; R.S.O. 1970, c. 415, s. 5 (1), par. 42; 1974, c. 7, s. 2 (2).

51. classroom supplies, as defined by the Minister, purchased for use or consumption and not for resale by schools, school boards or universities;

52. students' supplies, as defined by the Minister;

53. books that are printed and bound and that are published solely for educational, technical, cultural or literary purposes and that contain no advertising, but not directories, price lists, time tables, rate books, catalogues, reports, fashion books, albums or any books of the same general classes;

54. newspapers, however purchased;

55. magazines and periodicals, as defined by the Minister; R.S.O. 1970, c. 415, s. 5 (1), pars. 43-47.

56. liquor, beer or wine sold under the authority of a special occasion permit issued under the Liquor Licence Act and regulations made thereunder; R.S.O. 1980, c. 244.
57. machinery or equipment that, pursuant to a contract for the acquisition or rental of such machinery or equipment or pursuant to a direction for the fabrication or manufacture thereof made or given after the 7th day of April, 1975 and before the 1st day of January, 1977, is delivered after the 7th day of April, 1975 and before the 1st day of January, 1978 to the person by whom such machinery or equipment is to be used, if such machinery or equipment is, in the opinion of the Minister, to be used principally in,

(a) the process of manufacturing or producing tangible personal property for sale or use by the manufacturer or producer thereof, or

(b) the construction of capital works, buildings, structures, roads or similar projects when the value of any separate piece of machinery or equipment so used and for which exemption is claimed under this paragraph is not less than $500,

but no exemption may be claimed under this paragraph for any machinery or equipment,

(c) that is, in the opinion of the Minister, principally used in the production or provision of a taxable service,

(d) the contract for the rental or acquisition of which or the direction for the fabrication or manufacture of which is, in the opinion of the Minister, made for the purpose of obtaining the exemption conferred by this paragraph in substitution for or as the result of the cancellation of a substantially similar contract entered into or direction made or given before the 8th day of April, 1975, or

(e) prescribed by the Minister to be excluded from the exemption conferred by this paragraph; 1975, c. 9, s. 4 (3), part; 1976, c. 23, s. 3 (4); 1976, c. 82, s. 3 (2).

58. returnable containers to be used to hold milk that is sold at a retail sale in Ontario; 1975, c. 9, s. 4 (3), part.

59. works of art, as defined by the Minister, purchased by a museum or art gallery more than 50 per cent of the revenue of which is provided by public donations and grants by public bodies; R.S.O. 1970, c. 415, s. 5 (1), par. 50.
60. uncancelled postage stamps and uncancelled revenue stamps valid for the transportation of mail or for revenue purposes in the jurisdiction issuing such stamps, if the consideration for the sale thereof does not exceed the equivalent face value thereof in Canadian funds; 1976, c. 23, s.3 (5).

61. coin, paper money or bank notes unless purchased at a price greater than the equivalent face value thereof in Canadian funds; R.S.O. 1970, c. 415, s. 5 (1), par. 52.

62. equipment, as defined by the Minister, that is to be used by a religious institution exclusively in that part of its premises where religious worship or sabbath school is regularly conducted, and repairs to such equipment, but not including any equipment acquired for resale by a religious institution; 1975, c. 9, s. 4 (4).

63. equipment, as defined by the Minister and that is purchased by a person licensed by the Minister of Natural Resources to trap fur-bearing animals, and repairs to such equipment; R.S.O. 1970, c. 415, s. 5 (1), par. 54; 1972, c. 4, s. 12.

64. machinery and apparatus and parts thereof, as defined by the Minister, purchased by advertisers or their agents that, in the opinion of the Minister, are used to produce advertisements exclusively in newspapers or magazines;

65. religious and educational publications, as defined by the Minister; R.S.O. 1970, c. 415, s. 5 (1), pars. 55, 56.

66. tangible personal property purchased at a price of less than 21 cents, except draft beer; 1972, c. 21, s. 1 (2).

67. buses, excluding school buses, when purchased in good faith to provide public transportation within a municipality as defined by the Minister, and repairs to such equipment;

68. tangible personal property that is purchased in good faith pursuant to a contract entered into on or after the 1st day of June, 1964, for use exclusively and not for resale by the governing board of a public hospital, nurses' residence, school or university and that will be incorporated into and form part of a public hospital, nurses' residence, school or university building; R.S.O. 1970, c. 415, s. 5 (1), pars. 58, 59.
69. tangible personal property that enters directly into and becomes part of the construction of capital works that, upon completion, are owned by a municipality or by a local board thereof, if the cost of such tangible personal property is shown to have been directly and substantially borne by the municipality or local board thereof that owns the capital works into the construction of which such tangible personal property entered; 1973, c. 23, s. 4 (6).

70. tobacco products taxed under the *Tobacco Tax Act*;

71. settler's effects, as defined by the Minister; R.S.O. 1970, c. 415, s. 5 (1), pars. 61, 62.

72. animals, including birds, fish and reptiles, sold for use as household pets; 1973, c. 23, s. 4 (7).

73. tangible personal property situated on a reserve, as defined by the *Indian Act* (Canada) or by the Minister, when purchased by an Indian, and tangible personal property purchased by an Indian off the reserve when delivered to the reserve for consumption or use by an Indian; R.S.O. 1970, c. 415, s. 5 (1), par. 64; 1976, c. 23, s. 3 (6).

74. taxable services used on a reserve, as defined by the *Indian Act* (Canada) or by the Minister, when purchased by an Indian; R.S.O. 1970, c. 415, s. 5 (1), par. 65; 1976, c. 23, s. 3 (7).

75. vessels, as defined by the Minister, that do not exceed 500 tons gross and that are operated for commercial purposes, repairs to such vessels, and machinery or equipment purchased to refit such vessels; 1975, c. 9, s. 4 (5); 1976, c. 82, s. 3 (3).

76. patterns for the making of clothing or wearing apparel;

77. textiles, as defined by the Minister, and trimmings therefor, as defined by the Minister, but not including floor coverings, canvas, plastics of any kind, metal cloth, natural or synthetic fur and leather, or thread, wool, yarn and similar materials for sewing, knitting, crocheting and similar handicrafts, or any material or product prescribed by the Minister to be excluded from the exemption conferred by this paragraph;
78. self-contained household smoke alarms purchased for use in residential premises;

79. furnishings, as defined by the Minister, or food preparation equipment, as defined by the Minister, when purchased for use in restaurants of the class or type prescribed by the Minister, or purchased for use in any hotel, motel, tourist resort or other similar tourist establishment, of the class or description prescribed by the Minister, provided that such furnishings or food preparation equipment is sold to, and delivery thereof is taken by, the purchaser wholly within the period commencing on the 11th day of April, 1979 and ending with the 31st day of December, 1981; 1979, c. 27, s. 3 (4); 1980, c. 70, s. 1 (3).

80. furniture, other than that prescribed by the Minister to be excluded from the exemption conferred by this paragraph, that is purchased for private household use, if the purchase is made before the 1st day of July, 1981 and delivery thereof is taken by the purchaser on or after the 14th day of November, 1980 and before the 1st day of July, 1981;

81. major home appliances that are manufactured for private household use and that are,

   (a) refrigerators, freezers or kitchen ranges, including ovens and cooking tops sold separately for installation as a kitchen range, or

   (b) washers or dryers for the laundering of clothes,

but only when such appliances have never previously been sold, leased or rented by a dealer to a customer at a retail sale anywhere and are,

   (c) purchased before the 1st day of July, 1981 and delivered to the purchaser thereof on or after the 14th day of November, 1980 and before the 1st day of July, 1981, and

   (d) not appliances or a class or kind of appliance prescribed by the Minister to be excluded from the exemption conferred by this paragraph;

82. building materials, as defined by the Minister, that are purchased before the 1st day of July, 1981 and are delivered to the purchaser thereof on or after the 14th day of November, 1980 and before the 1st day of July, 1981; 1980, c. 70, s. 1 (4).
(2) The purchaser of tangible personal property purchased to provide a taxable service is not exempt from the tax imposed by this Act.

(3) No taxable service is exempt from the tax imposed by this Act by reason of the fact that the tangible personal property used in providing the taxable service is tangible personal property in respect of which tax imposed by this Act has been paid. R.S.O. 1970, c. 415, s. 5 (2, 3).

(4) A person in Ontario to whom any tangible personal property, taxable service or admission to a place of amusement is provided by way of promotional distribution is, with respect to his consumption or use thereof or with respect to the price of admission thereof, exempt from the tax imposed by this Act on the amount by which the full fair value or full price of admission thereof exceeds any payment that is made by him solely and specifically for the receipt by him of the tangible personal property, taxable service or admission to a place of amusement so provided and that is not referable to the purchase, consumption or use by him of any other property, right or service. 1978, c. 6, s. 2 (3).

6.—(1) Where a person acquires title to tangible personal property by bequest or from a member of his family and no consideration is payable by the purchaser in respect of the acquisition, the tax imposed by subsection 2 (1) does not apply.

(2) In subsection (1), "member of his family" means the father, mother, husband, wife, grandfather, grandmother, son, daughter, grandson, granddaughter, son-in-law, daughter-in-law, father-in-law or mother-in-law of the purchaser. R.S.O. 1970, c. 415, s. 6.

7.—(1) If, owing to special circumstances, it is deemed inequitable that the whole amount of tax imposed by this Act be paid, the Minister may, with the approval of the Lieutenant Governor in Council, exempt a purchaser from payment of the whole or any part of such tax. R.S.O. 1970, c. 415, s. 7 (1).

(2) The tax imposed by subsection 2 (4) is not payable in respect of the price of admission to any entertainment, event, dance, performance or exhibition staged or held in a place of amusement by, or under the auspices or sponsorship of,

(a) a registered Canadian amateur athletic association, as defined by paragraph 110 (8) (b) of the Income Tax Act (Canada), including a branch or affiliate association to
which the registration under that Act of the Canadian amateur association of which it is a branch or affiliate has been extended;

(b) a registered charity, as defined by paragraph 110 (8) (c) of the Income Tax Act (Canada);  
(R.S.C. 1952, c. 148)

(c) a labour organization or society, or a benevolent or fraternal benefit society or order;

(d) an agricultural society constituted under the Agricultural Societies Act;

(e) an educational institution;

(f) a club, society, association, chamber of commerce or board of trade organized and operated for any purpose except profit, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof except a proprietor, member or shareholder that is a club, society or association the primary purpose and function of which is the promotion of amateur athletics in Canada; or

(g) an organization that is substantially assisted or supported financially from public funds of the Province of Ontario and that is prescribed by the Minister for the purpose of this subsection. 1979, c. 27, s. 4, part.

8. Every vendor is an agent of the Minister and as such shall levy and collect the taxes imposed by this Act upon the purchaser or consumer. 1973, c. 23, s. 5, part.

9.—(1) The Minister may in writing authorize any person who is not a vendor or any class of persons who are not vendors to collect, as agent of the Minister, the tax imposed by this Act, and an authorization under this subsection may limit the time during which the authority conferred is exercisable, and may limit the class or type of purchasers or consumers from whom tax may be collected.

(2) Every person who collects tax by virtue of an authorization made under subsection (1) shall be deemed to hold such tax in trust for Her Majesty in right of Ontario, and is responsible for the payment over of such tax in the manner and time provided under this Act and the regulations for the payment over of tax collected by a vendor.
(3) An authorization made under subsection (1) may be revoked with respect to any person to whom the authorization extends, but before any such revocation is made, the person affected shall be afforded an opportunity to appear before the Minister to show cause why the authorization should not be revoked.

(4) No person acting under subsection (1) or under section 8 shall thus be made ineligible as a member of the Assembly. 1973, c. 23, s. 5, part.

10. The taxes imposed by this Act, whether the purchase price be stipulated to be payable in cash or on terms or by instalments or otherwise, shall be collected at the time of the sale on the whole amount of the purchase price and be remitted to the Treasurer at the times and in the manner prescribed by the regulations. R.S.O. 1970, c. 415, s. 9.

11. All taxes collected by a vendor under this Act, and all amounts collected as or on account of tax by a vendor under this Act, shall, subject to subsection 2 (12), be remitted to the Treasurer at the time or times and in such manner as are prescribed by the regulations, and every vendor who fails so to remit the tax or amounts so collected by him 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 $25 and no more than $1,000 plus, in an appropriate case, an amount of not more than double the amount of tax collected and amounts collected as or on account of tax under this Act that were not remitted to the Treasurer as required by this Act or the regulations. 1976, c. 23, s. 4.

12.—(1) For each twelve-month period commencing on the 1st day of April, there may be paid to each vendor holding a valid and subsisting permit issued under section 3 the lesser of,

(a) $1,000; or

(b) the aggregate of,

(i) 4 per cent of the tax collected by the vendor in such period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is $400 or more,

(ii) $16 for each return with respect to tax collected by the vendor in such period that is made in accordance with this Act and the regulations and
in which the tax shown to have been so collected exceeds $16 and is less than $400, and

(iii) the tax collected by the vendor in such period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed $16,

as compensation for his services in collecting and remitting the tax imposed by this Act, and the vendor may deduct such compensation from the amount otherwise to be remitted to the Treasurer in accordance with section 11. 1975, c. 9, s. 5, part; 1977, c. 13, s. 5; 1979, c. 27, s. 5; 1980, c. 22, s. 2.

(2) The Minister may enter into such arrangements as he considers expedient and proper with any person who collects tax by virtue of an authorization made under subsection 9 (1) for the payment of compensation to such person for his services in collecting and remitting the tax imposed by this Act, and such person may deduct the compensation payable to him from the amount otherwise to be remitted to the Treasurer in accordance with this Act and the regulations.

(3) No person accepting compensation under subsection 1 or 2 shall thus be made ineligible as a member of the Assembly. 1975, c. 9, s. 5, part.

13.—(1) Every vendor shall make returns to the Minister and shall keep such records in the form and substance as are prescribed by the regulations, and any failure so to do constitutes an offence against this Act.

(2) Every registered consumer shall make returns to the Minister and shall keep such records in the form and substance as are prescribed by the regulations, and any failure so to do constitutes an offence against this Act. R.S.O. 1970, c. 415, s. 12.

14. Every manufacturer, wholesaler, importer, jobber, agent and vendor shall keep records of all purchases and sales made by him of tangible personal property whether for consumption or use or for resale, and any failure so to do constitutes an offence against this Act. R.S.O. 1970, c. 415, s. 13.

15.—(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.

(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, if 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 if 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. R.S.O. 1970, c. 415, s. 14.

16.—(1) Where a vendor fails to make a return or a remittance as required under this Act or if his returns are not substantiated by his records, the Minister may make an assessment of the tax collected by such vendor for which he has not accounted and such assessed amount shall thereupon be deemed to be the tax collected by the vendor.

(2) Where it appears from an inspection, audit or examination of the books of account, records or documents of any vendor 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 collected by the vendor or payable by the purchaser 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 collected by the vendor or payable by the purchaser, as the case may be. R.S.O. 1970, c. 415, s. 15 (1, 2).

(3) The Minister may assess or reassess any tax payable by a purchaser under this Act within three years from the day such tax became payable; as the case may be, except that, where the Minister establishes that any purchaser has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud,
in making a return or in supplying any information under this Act or in omitting to disclose any information, then the Minister may assess or reassess tax imposed by this Act at any time he considers reasonable. 1975, c. 9, s. 6; 1976, c. 23, s. 5.

(4) Where the Minister has made an assessment under subsection (1), he may send by prepaid mail or by personal service a notice of assessment to the vendor, requiring that the amount of the assessment made under subsection (1), be remitted to the Treasurer or otherwise accounted for.

(5) The Minister shall send by prepaid mail a notice of the assessment made under subsection (2) or (3) to the vendor or purchaser, as the case may be, at his latest known address, and, where the vendor or purchaser has more than one address, one of which is in Ontario, such notice shall be sent to his address in Ontario.

(6) 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.

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

(8) 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. R.S.O. 1970, c. 415, s. 15 (4-8).

17.—(1) The Minister may assess under this section any person who has received a refund or rebate under this Act or the regulations and who is not entitled to such refund or rebate, and such assessment shall be for the amount of the refund or rebate to which the person is not entitled and shall be accompanied by a brief statement in writing of the grounds upon which the person assessed is claimed not to be entitled to the amount claimed in the assessment.

(2) Where a person has, in accordance with this Act and the regulations, applied for a refund or rebate under this Act or the regulations, and his claim is in whole or in part refused, the Minister shall cause to be served on such person
a statement of disallowance in such form as the Minister shall prescribe, and the statement shall specify the amount of the disallowance and the reasons therefor.

(3) Every vendor who has failed to collect tax that he is responsible to collect under this Act or the regulations and who has not complied with section 19 with respect to his failure to collect such tax shall, when assessed therefor, pay a penalty equal to the amount of tax that he failed to collect, but where the tax that should have been collected from a particular purchaser is $50 or more and the vendor supplies to the Minister particulars of the transaction giving rise to such amount of tax and the name and address in Ontario of the purchaser liable for the tax, the Minister may, unless he is satisfied that the vendor wilfully neglected to collect such tax from such purchaser, assess such purchaser for such tax, in which case such tax shall not be included in an assessment made under this subsection.

(4) No penalty imposed under subsection (3) shall be imposed with respect to tax that should have been collected more than three years immediately preceding the day of the assessment under subsection (3), except that, where the Minister establishes that any vendor has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud, in making a return or in supplying any information under this Act or the regulations or in omitting to disclose any information, then the Minister may, where he considers it expedient, impose the penalty provided for in subsection (3) for tax that should have been collected more than three years prior to the date of the assessment under subsection (3).

(5) Every purchaser who, at a sale in Ontario, acquires or purchases from a person who is not a vendor within the meaning of this Act tangible personal property for the consumption of which the purchaser is liable to pay tax under this Act and who understates the fair value of such tangible personal property in any written statement or document signed by him or under his authority shall, when assessed therefor, pay a penalty of,

(a) not less than an amount equal to the greater of,

(i) $25, or

(ii) the unpaid tax applicable to the amount by which he understated the fair value of such tangible personal property;

and
(b) not more than $500,

and such penalty shall be in addition to the tax properly payable by him on his consumption of such tangible personal property.

(6) A statement under subsection (2) or a notice of an assessment made under this section may be served by sending such statement or notice by prepaid mail to the person whose claim is refused or against whom an assessment is made under this section, as the case may be, at his last known address in Ontario, or by serving such notice on him personally.

(7) Subject to being vacated on an objection or appeal, a statement or assessment under this section shall be deemed to be valid and binding, and the amount assessed in any such assessment shall, for the purposes of the collection or recovery thereof, be deemed to be tax owing under this Act and to be conclusively established as a debt owing to Her Majesty in right of Ontario.

(8) Every person assessed under this section shall, within thirty days of the service of the notice of assessment, pay the amount assessed against him whether or not an objection to or appeal from the assessment is outstanding. 1976, c. 23, s. 6.

18.—(1) Every vendor or purchaser shall, within thirty days from the day of mailing of the notice of assessment under subsection 16 (4) or (5), pay any part of the assessed tax then remaining unpaid, whether or not an objection to or appeal from the assessment is outstanding.

(2) Where in the opinion of the Minister a vendor or a purchaser is attempting to avoid payment of the tax imposed by this Act or where the Minister has assessed the tax payable under this Act pursuant to subsection 16 (1), (2) or (3), he may, notwithstanding subsection 16 (4) or (5), serve the notice of assessment upon the vendor or the purchaser, as the case may be, and, if the vendor or the purchaser is a partnership or a corporation, the notice of assessment may be served on a partner or the president, manager, secretary or other director, agent or representative thereof, and the Minister may direct that all taxes as set out therein shall be paid forthwith. R.S.O. 1970, c. 415, s. 16.

19. The purchaser is liable for the tax imposed by this Act until it is collected, and, where the purchaser refuses to pay the tax at the time it is collectable under section 10, the vendor shall
within twenty days thereafter, notify the Minister thereof. R.S.O. 1970, c. 415, s. 17.

20.—(1) Every vendor who collects any tax under this Act shall be deemed to hold it in trust for Her Majesty in right of Ontario and is responsible for the payment over of it in the manner and time provided under this Act and the regulations. R.S.O. 1970, c. 415, s. 18 (1).

(2) Where, by the order of a court or otherwise, any property of a vendor is lawfully taken from his control or possession for the purposes of liquidation in receivership proceedings, sale by a secured creditor, winding-up proceedings or for the purpose of a distribution to creditors pursuant to a general assignment made for the benefit of creditors, an amount equal to the amount of tax that was collected by the vendor and that by subsection (1) is deemed to be held in trust for Her Majesty in right of Ontario, shall, to the extent of the amount of tax that was collected by the vendor in the year immediately preceding the date when the vendor lost control or possession of his property and was not remitted to the Treasurer as required by subsection (1), be deemed to be separate from, and to form no part of, the estate or property in liquidation, whether or not that amount has in fact been kept separate and apart from the vendor's own property and in trust in accordance with subsection (1), and the amount deemed by this subsection to be separate from, and to form no part of the estate or property in liquidation, shall be paid out of cash and the proceeds of the realization of the vendor's property and the said claim shall be paid in priority to all other claims except those described by subsection (4) to be claims to which this subsection is not applicable. 1977, c. 13, s. 6, part; 1979, c. 27, s. 6 (1).

(3) Every person who, as assignee, liquidator, administrator, receiver, receiver-manager, secured creditor or duly authorized agent of a secured creditor, trustee or other like person, other than a trustee appointed under the Bankruptcy Act (Canada), takes control or possession of the property of any vendor holding a valid and subsisting permit issued under section 3 shall, before distributing such property or the proceeds from the realization thereof under his control, obtain from the Minister a certificate that the tax collected by the vendor in the year immediately preceding the date when the vendor lost control or possession of his property and not remitted by the vendor as required by subsection (1) has been paid or that security therefor acceptable to the Minister has been given, and any assignee, liquidator, adminis-
trator, receiver, receiver-manager, secured creditor or duly authorized agent of a secured creditor, trustee or other like person, other than a trustee appointed under the Bankruptcy Act (Canada), who distributes any such property or the proceeds of the realization thereof without having obtained the certificate required by this subsection is personally liable to Her Majesty in right of Ontario for an amount equal to the amount of tax that was collected by the vendor in the year immediately preceding the date when the vendor lost control or possession of his property and not remitted to the Treasurer as required by subsection (1). 1977, c. 13, s. 6, part; 1979, c. 27, s. 6 (2).

(4) Subsection (2) does not apply to claims made against the specific property of a vendor under fixed charges, mortgages and assignments where the specific property is identified by description in the agreements pursuant to which the security was given and does not apply to claims made against accounts receivable of the vendor that were assigned or mortgaged for value under a general assignment of book debts or security agreement registered under the Personal Property Security Act where the assignee or mortgagee has given notice to the vendor’s debtor of his assignment or interest and legal entitlement to the debts in question and has directed the vendor’s debtor to pay the debt to it or where the assignee or mortgagee is in actual receipt of the proceeds of the debts prior to the date when the vendor lost control or possession of his property.

(5) The amount deemed by subsection (2) to be separate from, and to form no part of, the estate or property in liquidation shall be paid in priority to claims against all property of the vendor acquired after the date when the vendor gave a fixed charge, mortgage or assignment of specific property and which property by the terms of the fixed charge, mortgage or assignment is to be included in the said security once acquired by the vendor and claims against all property of the vendor secured under a floating instrument purporting to charge the property of the vendor in existence at the date when the security instrument was given as well as property of the vendor acquired after that date.

(6) For the purpose of enabling the Minister to determine the amount that by subsection (2) is deemed to be separate from, and to form no part of, the estate or property in liquidation, every person who as assignee, liquidator, administrator, receiver, receiver-manager, secured creditor or duly authorized agent of a secured creditor, trustee or other like person, other than a trustee in bankruptcy, takes control or possession of the property of any vendor holding a
valid and subsisting permit issued under section 3, shall within thirty days from the date of his assumption of possession or control give written notice thereof to the Minister.

(7) As soon as possible after receiving such notice, the Minister shall advise the person described in subsection (6) of the amount of taxes collected by the vendor in the one year immediately preceding the date when the vendor lost control or possession of his property and not remitted to the Treasurer as required by subsection (1).

(8) For the purposes of subsections (2) and (6), “estate” and “property” means all the assets of the vendor, real and personal, tangible and intangible, whether subject to liens, charges or encumbrances or whether free and clear of such claims, and without limiting the generality of the foregoing, includes lands, accounts receivable, claims, demands, inventory, chattels, equipment, mortgages, leases and generally all the vendor’s undertaking, property and assets, of whatsoever nature and kind and wheresoever situate in Ontario. 1979, c. 27, s. 6 (3).

21.—(1) Where, prior to the 8th day of April, 1975, a first lien and charge arose or came into existence on any real property by virtue of subsection 20 (2) as it existed before such day, such real property is, upon the 1st day of July, 1975, absolutely discharged from such first lien and charge then remaining in force unless, prior to the 1st day of July, 1975, there is registered in the proper land registry office a notice claiming such first lien and charge. 1975, c. 9, s. 8.

(2) Where, on or after the 8th day of April, 1975, a person acquires in good faith, for value and without notice the title to any personal property on or with respect to which, prior to the 8th day of April, 1975 a first lien and charge arose or came into existence by virtue of subsection 20 (2) as it existed immediately prior to that date, such personal property is, upon the 8th day of April, 1976, absolutely discharged from such first lien and charge then remaining in force. 1976, c. 23, s. 7.

22.—(1) Where a person objects to an assessment made against him under section 16 or 17 or to a statement under section 17 that is served on him, he may, within ninety days from the day of mailing of the statement or 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. 1976, c. 23, s. 8 (1); 1980, c. 70, s. 2.
(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. R.S.O. 1970, c. 415, s. 19 (2).

(3) Upon receipt of the notice of objection, the Minister shall with all due dispatch reconsider the assessment or statement objected to and vacate, confirm or vary the assessment or statement, or reassess or serve a fresh statement, and he shall thereupon notify the person making the objection of his action by registered letter. 1976, c. 23, s. 8 (2).

23.—(1) When the Minister has given the notification required by subsection 22 (3), the person who has served a notice of objection under that section may appeal to the Supreme Court to have the assessment or statement so objected to vacated or varied, 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 22 (3). 1976, c. 23, s. 9, revised.

(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 the local registrar of the Supreme Court for the county or district in which the person appealing resides or has his place of business.

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

(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.

(5) An appeal under this section and all proceedings thereunder are, upon the expiration of sixty days from the day the appeal is instituted, void unless security for the costs of the appeal has been, within the same period, paid into court in such sum, not exceeding $400, as the Minister requires and, upon an appeal becoming void by virtue of this subsection, no other appeal or proceeding shall be instituted in respect of the same decision.

(6) When security has been given under subsection (5), notice thereof shall be served on the Minister specifying the fact and the purpose of the payment. R.S.O. 1970, c. 415, s. 20 (2-6).
(7) The time within which a notice of objection under section 22 or a notice of appeal under this section is to be served may be extended by the Minister if application for such extension is made before the time for service of the notice of objection or a notice of appeal, as the case may be, has expired. 1980, c. 70, s. 3.

24. The Minister shall with all due dispatch serve on the person appealing and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and all statutory provisions and reasons as he intends to rely on, and where the Minister has failed to serve the reply within 180 days from the date of service upon him of the notice under subsection 23 (6), the appellant may, upon twenty-one days notice to the Minister, apply to a judge of the Supreme Court for an order requiring the reply to be served within such time as the judge shall order, and the judge may, if he considers it proper in the circumstances, also order that, upon failure by the Minister to serve the reply in the time specified in the order, the assessment with respect to which the appeal is taken shall be vacated and any tax paid pursuant to such assessment shall be repaid to the appellant, but nothing in this section revives an appeal that is void or affects a statement or assessment that has become valid and binding under subsection 16 (8) or subsection 17 (7). 1979, c. 27, s. 7.

25.—(1) Upon the filing of the material referred to in section 24 with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the person appealing resides or has his place of business, the matter shall be deemed to be an action in the court. R.S.O. 1970, c. 415, s. 22 (1); 1975, c. 9, s. 9; 1976, c. 23, s. 10.

(2) Any fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in such manner and upon such terms as the court may direct.

(3) 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 assessment, or

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

(4) The court may, in delivering judgment disposing of an appeal, order payment or refund of tax by the appellant or the Treasurer, as the case may be, and may make such order as to costs as is considered proper. R.S.O. 1970, c. 415, s. 22 (2-4).

26. Proceedings pursuant to sections 23, 24, 25 and 27 shall be held in camera on request made to the court by the person appealing or by the Minister. R.S.O. 1970, c. 415, s. 23.

27. 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 deemed to be an action under section 23, 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. R.S.O. 1970, c. 415, s. 24.

28. An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act. R.S.O. 1970, c. 415, s. 25.

29.—(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 or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or records are or should be kept pursuant to this Act, and,

(a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or 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 examina-
tion 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 vendor or purchaser liable to collect or pay or considered possibly liable to collect or pay tax under this Act or, if such vendor or purchaser is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof and any other person on the premises of such vendor or purchaser 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 or place 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, by registered letter or by a demand served personally, require from any vendor or purchaser or, if any such vendor or purchaser is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof,

(a) any information or additional information or a return as required under section 13 or a supplementary return; 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, by registered
letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding or paying or liable to pay any amount to a vendor or purchaser, 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 otherwise, or other documents, within such reasonable time as is stipulated therein. R.S.O. 1970, c. 415, s. 26 (1-3).

(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. R.S.O. 1970, c. 415, s. 26 (4); 1972, c. 1, s. 1.

(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 vendor or purchaser, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand. R.S.O. 1970, c. 415, s. 26 (5).

(6) The Minister may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Ministry of Revenue, to make such inquiry as the Minister considers necessary with reference to anything relating to the administration or enforcement of this Act. R.S.O. 1970, c. 415, s. 26 (6); 1972, c. 1, s. 1.
(7) 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. R.S.O. 1970, c. 415, s. 26 (7); 1972, c. 1, s. 1.

(8) 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.

(9) 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.

(10) 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. R.S.O. 1970, c. 415, s. 26 (8-10).

(11) For the purpose of an inquiry under subsection (6), the person authorized to make the inquiry 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. 415, s. 26 (11); 1971, c. 49, s. 18.

30.—(1) Every vendor who fails to deliver a return as required by this Act and the regulations, or who fails to remit with his return the amount of taxes collectable or payable by him as shown therein, shall pay a penalty of,

(a) an amount equal to 5 per cent of the tax that was collectable and of the tax that was payable by him for the period covered by the return, if the amount of such tax was less than $10,000; or

(b) $500, if the amount of such tax was $10,000 or more. R.S.O. 1970, c. 415, s. 27 (1); 1973, c. 23, s. 6.
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(2) Every vendor who fails to complete the information required on the return to be delivered under section 13 is liable to a penalty of 1 per cent of the tax collectable by him for the period covered by the return, but such penalty shall not in any case be less than $20 or more than $100.

(3) Every person who has,

(a) made, or 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 the vendor or purchaser;

(c) made, or assented to or acquiesced in the making of, false or deceptive entries or omitted, or assented to or acquiesced in the omission, to enter a material particular in records or books of account of a vendor or purchaser;

(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 $25 and not more that $10,000 plus, in an appropriate case, an amount of not more than 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.

(4) Every registered consumer who fails to deliver a return when required shall pay a penalty of,

(a) an amount equal to 5 per cent of the tax that was payable by him for the period covered by the return, if the amount of such tax was less than $10,000; or
(5) Every registered consumer who fails to complete the information required on the return to be delivered under subsection 13 (2) is liable to a penalty of 1 per cent of the tax payable by him for the period covered by the return, but such penalty shall not in any case be less than $20 or more than $100. R.S.O. 1970, c. 415, s. 27 (2-5).

31. The Minister may enlarge the time for making any return before or after the time for making it. R.S.O. 1970, c. 415, s. 28.

32.—(1) Any amount payable or to be remitted to the Treasurer under this Act bears interest, at such rate as is prescribed by the regulations, from the day on which such amount should have been paid or remitted to the Treasurer to the day of payment or until thirty days following the day on which a notice of assessment is mailed or personally served under subsection 16 (4) or (5), whichever is the earlier date. R.S.O. 1970, c. 415, s. 29 (1); 1972, c. 21, s. 4 (1).

(2) The amount due as shown by a notice of assessment made under subsection 16 (4) or (5) shall, if it is not paid within thirty days from the day of mailing or personal service of the notice of assessment, bear interest, at such rate as is prescribed by the regulations, calculated from thirty days after the day of mailing or personal service of the notice of assessment until the day of payment. R.S.O. 1970, c. 415, s. 29 (2); 1972, c. 21, s. 4 (2).

33.—(1) 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 $1, in which event no interest shall be paid or applied under this subsection. R.S.O. 1970, c. 415, s. 30 (1).

(2) Where by a decision of the Minister under section 22 or by a decision of a court it is finally determined that the tax payable under this Act by a person is less than the amount assessed by the assessment under section 16 or 17 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 (1) on that overpayment shall be computed at such rate as is prescribed by the regulations. R.S.O. 1970, c. 415, s. 30 (2); 1977, c. 13, s. 7.
34.—(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.

(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.

(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 requirement under this section is liable to pay Her Majesty in right of Ontario 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.

(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.

(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. R.S.O. 1970, c. 415, s. 31.

(6) 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.
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.

(7) 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. 1977, c. 13, s. 8,

35.—(1) Upon default of payment by a vendor or purchaser of any tax collectable or payable under this Act,

(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;

(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 owing by him, 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. R.S.O. 1970, c. 415, s. 32 (1).

(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. R.S.O. 1970, c. 415, s. 32 (2); 1972, c. 1, s. 1.

36. The use of any of the remedies provided by sections 34 and 35 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 otherwise. R.S.O. 1970, c. 415, s. 33.

37.—(1) The Minister may require any vendor to deposit with the Treasurer a bond by way of cash or other security satisfactory to the Minister in an amount to be determined by the Minister but not greater than an amount equal to six times the amount of the estimated tax that would normally be collected by the vendor each month under this Act, but in no case shall the deposit be less than $100.

(2) Where a vendor who has deposited a bond with the Treasurer under subsection (1) has failed to collect or remit tax in accordance with this Act, the Minister may, by giving written notice to the vendor by registered mail or personal service, apply the bond in whole or in part to the amount that should have been collected, remitted or paid by the vendor as the amount due to Her Majesty in right of Ontario as of the date of the notice. R.S.O. 1970, c. 415, s. 34 (1, 2).

(3) Where a non-resident contractor enters into a contract with a person pursuant to which or in the carrying out of which tangible personal property will be consumed or used in Ontario, the non-resident contractor shall deposit with the Treasurer a sum equivalent to 4 per cent of the total amount to be paid under the contract, or shall furnish the Treasurer with a guarantee bond satisfactory to the Minister in a sum equivalent to 4 per cent of such total amount, to secure payment of the tax payable in respect of tangible personal property consumed or used pursuant to or in the carrying out of the contract and shall obtain a certificate in duplicate from the Minister that the requirements of this subsection have been met. R.S.O. 1970, c. 415, s. 34 (3); 1975, c. 9, s. 10 (1).

(4) Any person dealing with a non-resident contractor without first obtaining the duplicate copy of the certificate from the Minister as required in subsection (3) shall deduct 4 per cent of all amounts payable to the non-resident contractor and pay it over to the Treasurer on behalf of or as agent for the non-resident contractor, or shall furnish the Treasurer with a guarantee bond satisfactory to the Minister in a sum equivalent to 4 per cent of such total amount, to secure payment of the tax payable in respect of tangible personal property consumed or used pursuant to or in the carrying out of the contract. R.S.O. 1970, c. 415, s. 34 (4); 1975, c. 9, s. 10 (2).
(5) Where a person dealing with a non-resident contractor fails to comply with subsection (4), he is personally liable for payment of the tax imposed by this Act in respect of tangible personal property consumed or used pursuant to or in the carrying out of the contract. R.S.O. 1970, c. 415, s. 34 (5).

(6) In this section, "non-resident contractor" does not include a company incorporated pursuant to the laws of Ontario. 1975, c. 9, s. 10 (3).

38. No vendor shall advertise or post or otherwise quote a price that includes the tax imposed by this Act unless he specifies separately the amount of the tax payable under this Act, and no vendor shall hold out or state to the public or to any purchaser, directly or indirectly, that the tax or any part thereof imposed by this Act will be assumed or absorbed by such vendor or that it will not be considered as an element in the price to the purchaser or, if added, that it or any part thereof will be refunded. 1973, c. 23, s. 7.

39.—(1) Every vendor or registered consumer 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 14 or 29 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. 415, s. 36.

40. Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.  R.S.O. 1970, c. 415, s. 37.

41.—(1) Subject to subsection (2), a person guilty of an offence against this Act is liable on conviction to a fine of not less than $10 and not more than $1,000.

(2) Every person who fails to collect the tax imposed by this Act is liable on conviction to a fine equal to the amount of the tax that should have been collected as determined under subsection (3) and, in addition, an amount not less than $10 and not more than $1,000.
(3) The Minister shall determine the amount of the tax referred to in subsection (2) from such information as is available to him and shall issue a certificate as to the amount, but, except where he deems there has been deliberate evasion of this Act, the Minister shall not consider a period of more than three years in determining the amount of the tax referred to.

(4) In any prosecution under subsection (2), a certificate signed or purported to be signed by the Minister stating the amount of tax that should have been collected is prima facie evidence of the amount of tax that should have been collected and of the authority of the person giving or making the certificate without any proof of appointment or signature.

(5) 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.

(6) 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.

(7) Fines imposed under this Act shall be paid to the Treasurer on behalf of Her Majesty in right of Ontario.

R.S.O. 1970, c. 415, s. 38.

(8) Where a fine provided for in this Act is imposed on any person as the result of his conviction for the commission of an offence against this Act, a sentence of imprisonment for not more than one year in default of payment of the fine may also be imposed on such person. 1976, c. 23, s. 11.

42. In any prosecution for failure to pay the tax or collect or remit the tax, the onus of proving that the tax was paid, collected or remitted, as the case may be, to the Minister is upon the accused. R.S.O. 1970, c. 415, s. 39.

43. A proceeding to prosecute an offence against this Act shall be commenced within six years of the time when the matter of the offence arose. R.S.O. 1970, c. 415, s. 40, revised.

44.—(1) In a prosecution against a vendor under this Act, the application form he filed for a permit under section 3 is prima facie evidence that the person charged is
a vendor under this Act and a return filed by him is 

*prima facie* evidence that he collected tax under this Act.

**(2)** Where a vendor is described as a partnership on an application form for a permit under section 3, the application form is *prima facie* evidence that the persons named therein are members of such partnership and a return form filed by the partnership is *prima facie* evidence that the partnership collected tax. R.S.O. 1970, c. 415, s. 41.

**Regulations**

45.—(1) For the purpose of carrying into effect the provisions of this Act according to their true intent and of supplying any deficiency therein, the Lieutenant Governor in Council may make such regulations as are considered necessary and advisable. R.S.O. 1970, c. 415, s. 42 (1).

**(2)** Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

(a) prescribing the method of collection and remittance of the tax and any condition or requirement affecting such collection or remittance;

(b) authorizing or requiring the Deputy Minister or any other officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;

(c) defining any expression used in this Act or the regulations;

(d) providing for the rebate of the tax in whole or in part to,

(i) the governing body of any religious, charitable or benevolent organization in respect of tangible personal property entering into capital investment by such organization,

(ii) the governing body of any hospital, nurses' residence, school or university in respect of tangible personal property that is purchased by such governing body pursuant to a contract entered into on or before the 31st day of May, 1964, and that enters directly into and becomes part of the construction of a hospital, nurses' residence, school or university building, where the personal prop-
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The Minister may make regulations,

(a) prescribing, defining or determining anything that he is permitted or required by this Act to prescribe, define or determine;

R.S.O. 1970, c. 415, s. 42(2); 1972, c. 1, s. 1; 1973, c. 23, s. 8; 1975, c. 9, s. 11 (1).

Idem
(b) prescribing for the purposes of this Act or the regulations the records and information to be kept and maintained by a vendor, registered consumer or purchaser;

(c) 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;

(d) providing for the rebate of all or part of the tax paid on the purchase of a motor vehicle that is or will be adapted for the transportation of persons who have a permanent physical handicap that renders it impractical for them to use the usual forms of public transportation, if available, provided that such purchasers do not operate or permit the use of such vehicles for profit or as part of any undertaking carried on for gain, and the Minister may determine the conditions on which such rebate may be made and the extent of the adaptation necessary to entitle any person to such rebate;

(e) determining the basis and method for payment, collection, or accounting for tax on the consumption or use of tangible personal property or a taxable service where such use or consumption frequently or substantially occurs outside Ontario or is alternately or concurrently taxable and exempt;

(f) providing for the refund of tax paid on the purchase of thermal insulation materials, as defined for the purposes of paragraph 29 of subsection 5 (1), used after the 6th day of April, 1976 to insulate a building the construction of which has been completed, that is occupied permanently or seasonally for residential purposes, and that is not a building to which the exemption conferred by paragraph 29 of subsection 5 (1) does not apply;

(g) providing for the rebate of tax paid on parts that are used to increase the output or capacity of machinery and equipment, the purchase of which would be exempt by clause (a) of paragraph 45 of subsection 5 (1) if the capacity or output of such machinery or equipment is increased by not less than 25 per cent of the original output or capacity specified for such machinery or equipment, and prescribing the conditions on which
such rebate may be made and, where the Minister considers it appropriate, the method of calculating in any case or class of cases the increase in output or capacity necessary to meet the requirements of this clause:

(h) providing for the rebate of not more than $700 of tax paid on the purchase of parts and materials incorporated into the construction of a solar heating system for residential premises, and prescribing the meaning of the expression "solar heating system", the conditions upon which and the class of persons to whom such rebate may be made, and the type of residential premises in which the installation of such solar heating system may qualify for the rebate;

(i) providing for the rebate to persons engaged in the business of farming of tax paid on the consumption after the 22nd day of April, 1980 of tangible personal property for the construction or installation of grain storage bins or grain dryers, and prescribing the basis on which such rebate shall be calculated and the conditions under which it shall be made;

(j) extending to a date not later than the 30th day of September, 1981, the period within which delivery is required to be made for the purpose of any exemption conferred by paragraph 80, 81 or 82 of subsection 5 (1). 1975, c. 9, s. 11 (2), part; 1976, c. 23, s. 12; 1976, c. 82, s. 4; 1979, c. 27, s. 8; 1980, c. 22, s. 3; 1980, c. 70, s. 4.

(4) A regulation is, if it so provides, effective with reference to a period before it was filed. 1975, c. 9, s. 11 (2), part.