1980

c 502 Tobacco Tax Act

Ontario

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CHAPTER 502
Tobacco Tax Act

1. In this Act, "consumer" means any person who,
   (i) in Ontario, purchases or receives delivery of tobacco, or
   (ii) in the case of a person ordinarily resident in Ontario or carrying on business in Ontario, brings into Ontario tobacco acquired outside Ontario, for his own use or consumption or for the use or consumption by others at his expense, or on behalf of, or as the agent for, a principal who desires to acquire the tobacco for use or consumption by him or other persons at his expense, but does not include a dealer;

   "dealer" means any person who in Ontario sells tobacco or offers or keeps tobacco for sale, either at wholesale or at retail;

   "Minister" means the Minister of Revenue;

   "package" includes a box, tin or other container in which tobacco is sold at retail;

   "regulations" means the regulations made under this Act;

   "retail dealer" means any person who sells tobacco to a consumer;

   "retail sale" means a sale to a consumer;

   "tobacco" means tobacco in any form in which it is used or consumed, and includes snuff;

   "Treasurer" means the Treasurer of Ontario and Minister of Economics;
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(j) "wholesale dealer" means any person who sells in Ontario tobacco for the purpose of resale. R.S.O. 1970, c. 463, s. 1; 1978, c. 62, s. 16 (3).

2.—(1) Every consumer shall pay to Her Majesty in right of Ontario a tax computed as follows:

(a) 1.2 cents on every cigarette purchased by him;

(b) 0.5 cents on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him;

(c) 3 cents on every cigar purchased by him for a price at retail of not more than 9 cents;

(d) 45 per cent of the price at retail of every cigar that is purchased by him for a price at retail of more than 9 cents, provided that where the application of such rate of tax produces a fraction of a cent, the fraction shall be counted as one full cent.

1979, c. 17, s. 1.

(2) The tax imposed by this Act shall be collected from the consumer by the retail dealer as agent of the Minister at the time of the sale to the consumer and shall be remitted by the retail dealer to the Minister at the time and in the manner prescribed by the regulations.

(3) No person acting as agent under subsection (2) shall thereby be made ineligible as a member of the Assembly. R.S.O. 1970, c. 463, s. 2 (2, 3).

(4) Where any person selling tobacco receives any payment made as or in lieu of the tax payable under this Act, such payment shall be dealt with and accounted for as tax under this Act, and any person who fails to deal with and account for such payment in accordance with this Act and the regulations is liable to the same penalties and fines, and is guilty of the same offences, as would apply if the payment were the tax payable under this Act, and the Minister may collect and receive such payment by the same remedies and procedures as are provided by this Act or the regulations for the collection and enforcement of the tax payable under this Act. 1977, c. 11, s. 1 (2).

3.—(1) No person shall sell tobacco in Ontario for resale unless he holds a subsisting wholesale dealer's permit issued to him under this Act.
(2) No person shall sell tobacco in Ontario to a consumer unless such person holds a subsisting vendor’s permit issued to him under the Retail Sales Tax Act.

(3) No wholesale dealer shall sell tobacco in Ontario to a person who does not hold a subsisting vendor’s permit issued to him under the Retail Sales Tax Act. R.S.O. 1970, c. 463, s. 3.

4. The Minister may suspend or cancel the permit of any wholesale dealer who,

(a) refuses or neglects to account for and pay as herein required moneys received by him as proceeds of the tax; or

(b) refuses or neglects to furnish security when so required under the regulations,

but, before a suspension or cancellation is made, the wholesale dealer shall be afforded an opportunity to appear before the Minister to show cause why the permit should not be suspended or cancelled, as the case may be. R.S.O. 1970, c. 463, s. 4; 1979, c. 17, s. 2.

5. Every person ordinarily resident in Ontario or carrying on business in Ontario who brings into Ontario or who receives delivery in Ontario of tobacco acquired for value by him for his own consumption or use or for the consumption or use by other persons at his expense, or on behalf of, or as agent for, a principal who desires to acquire such tobacco 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 the Minister with the invoice and all other pertinent information required from him by the Minister in respect of the consumption or use of such tobacco, and shall pay to Her Majesty in right of Ontario the same tax in respect of the consumption and use of such tobacco as would have been payable if the tobacco had been purchased in Ontario. R.S.O. 1970, c. 463, s. 5.

6. (1) No wholesale dealer shall dispose of his stock of tobacco through a sale in bulk as defined in the Bulk Sales Act without first obtaining a certificate in duplicate from the Minister that all taxes collectable or payable under this Act by such wholesale dealer 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. 1977, c. 11, s. 2; 1979, c. 17, s. 3.
(2) Every person purchasing tobacco stock through a sale in bulk as defined in the *Bulk Sales Act* shall obtain from the wholesale dealer 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 under this Act by the wholesale dealer thus disposing of his tobacco stock through a sale in bulk. R.S.O. 1970, c. 463, s. 6 (2).

7. No retail dealer shall advertise or hold out or state to the public or to any consumer directly or indirectly that the tax or any part thereof imposed by this Act will be assumed or absorbed by the retail dealer or that it will not be considered as an element in the price to the consumer or, if added, that it or any part thereof will be refunded. R.S.O. 1970, c. 463, s. 7.

8.—(1) Every person who collects any tax imposed by this Act shall be deemed to hold it in trust for Her Majesty in right of Ontario and shall pay it over to the Treasurer at the time and in the manner prescribed by the regulations or by agreement made under the regulations. R.S.O. 1970, c. 463, s. 8 (1).

(2) If any person who has collected any tax imposed by this Act fails to pay it over to the Treasurer at the time and in the manner prescribed by the regulations or by agreement made under the regulations, as the case may be, the amount thereof becomes a debt due from such person to Her Majesty in right of Ontario. 1979, c. 17, s. 4.

(3) For each twelve-month period commencing on the 1st day of April, there may be paid to each wholesale dealer designated a collector under this Act or the regulations the lesser of,

(a) $1,000; or

(b) the aggregate of,

(i) 4 per cent of the tax collected by him 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 $75 or more,

(ii) $3 for each return with respect to tax collected by him 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 $3 and is less than $75, and
(iii) the tax collected by him 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 $3.

as compensation for his services in collecting and remitting the tax imposed by this Act, and such collector may deduct such compensation from the amount otherwise to be remitted to the Treasurer in accordance with this Act and the regulations. 1976, c. 24, s. 2; 1977, c. 11, s. 3 (2); 1978, c. 5, s. 2.

9.—(1) Every person designated a collector according to the regulations shall, without notice or demand, deliver to the Minister, at the time and in the manner prescribed by the regulations, a return of tax, that he, as agent of the Minister, is responsible to collect, and shall, at the time and in the manner prescribed by the regulations, remit such tax with his return.

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

(3) Every person designated a collector according to the regulations who files a return after the time prescribed by the regulations shall pay, when assessed therefor, a penalty of,

(a) $10; or

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

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

(4) Every person designated a collector according to the regulations who fails to file a return as required by this Act or the regulations is guilty of an offence and on conviction is liable to a fine of $200.

(5) Every person designated a collector according to the regulations who fails to complete the information required in the return to be delivered to the Minister under sub-
section (1) is guilty of an offence and on conviction is liable to a fine of $200. 1977, c. 11, s. 4, part.

Assessment

10.—(1) The Minister may, at any time he considers reasonable, assess or reassess any tax that any person, as agent of the Minister, has collected and has failed to remit and any tax, interest or penalty, as the case may be, payable by him for which he has not accounted.

Assessment on inspection

(2) Where it appears from an inspection, audit or examination of the books of account, records or documents of any consumer or dealer that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax collectable or payable in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount of tax that any person as agent of the Minister has collected and has failed to remit and the amount of the tax, interest or penalty, as the case may be, payable by him for which he has not accounted.

Notice of Assessment

(3) Where the Minister has made an assessment under subsection (1) or (2), he shall deliver a notice of assessment by personal service or shall send such notice of assessment by mail or registered mail to the person so assessed at his last known address, or where the person has more than one address, one of which is in Ontario, to his address in Ontario, and the amount of the assessment shall, subject to subsection (4), be remitted to the Treasurer by the person so assessed within thirty days from the date of personal service or mailing of the notice of assessment.

Idem

(4) Where the Minister has made an assessment under subsection (1) or (2), the notice of assessment may provide that the amount assessed is payable forthwith.

Continuation of liability for tax

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

Minister not bound by returns

(6) The Minister is not bound by a return or information delivered by or on behalf of any person under this Act and may, notwithstanding that any return or information has been delivered, assess the tax payable under this Act.

Assessment valid and binding

(7) 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.
(8) The amount of any assessment is payable within the time required by the notice of assessment whether or not an objection or appeal from the assessment is made or taken. 1977, c. 11, s. 4, part.

11.-(1) Any amount that is payable or to be remitted to the Treasurer under this Act or the regulations, or that is payable as a penalty imposed under this Act otherwise than a penalty imposed as a result of a prosecution for an offence under this Act, bears interest at the rate prescribed by the regulations from the day on which the amount should have been paid or remitted to the day of payment.

(2) Any payment to the Treasurer under this Act that is not a fine shall first be applied to any interest payable by the person making a payment or on whose account payment is made.

(3) Where, owing to special circumstances, it is considered inequitable that the whole amount of interest payable by any person under this Act be paid, the Minister may exempt the person from any payment of the whole or any part of such interest. 1977, c. 11, s. 4, part.

12.-(1) Where a person objects to an assessment made under section 10, he may, within ninety days from the day of mailing or delivery by personal service of the notice of assessment, serve on the Minister a notice of objection in duplicate in the form prescribed by the regulations setting out the reasons for the objection and all relevant facts.

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

(3) Upon receipt of a notice of objection, the Minister shall with all due dispatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the person who has made the objection of his action by registered mail. 1977, c. 11, s. 4, part.

13.-(1) After the Minister has given the notification required by subsection 12 (3), a person who has served notice of objection under section 12 may appeal to the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days
from the day notice has been mailed to such person under subsection 12 (3).

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

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

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

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

(a) dismissing it;

(b) allowing it; or

(c) allowing it, and

(i) vacating the assessment,

(ii) varying the assessment,

(iii) restoring the original assessment, or
(iv) referring the assessment back to the Minister for reconsideration and reassessment.

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

(9) The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter that is deemed to be an action under subsection (6), and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court.

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

(11) The time within which a notice of objection under subsection 12 (1) or a notice of appeal under subsection (1) of this section is to be served may be extended by the Minister if application for extension is made before expiration of the time for service of the notice of objection or notice of appeal, as the case may be. 1977, c. 11, s. 4, part.

14.—(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 may,

(a) audit or examine any books and records and any account, voucher, letter, telegram or other document that relates or may relate to the tax imposed by this Act;

(b) examine the property described by an inventory or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertain-
ing the information that is or should be in the books or the amount of any tax imposed by this Act;

(c) require a dealer liable to collect or pay over or considered possibly liable to collect or pay over tax imposed under this Act, or, if such dealer 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 dealer 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 or other documents and retain them until they are produced in any court proceedings. R.S.O. 1970, c. 463, s. 9 (1); 1978, c. 5, s. 3.

(2) The Minister may, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation or from his or its agent or officer any information or the production or production under oath of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents in the possession or control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer for the purpose of administering or enforcing this Act or of determining what tax, if any, is collectable or payable under this Act and production of such information or documentation shall be made within such reasonable time as is stipulated in such registered letter or demand. 1980, c. 27, s. 1 (1).

(3) The Minister may, for any purpose related to the administration or enforcement of this Act and the regulations, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon an 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. 463, s. 9 (4); 1972, c. 1, s. 1.

(4) 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 under this subsection 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. 463, s. 9 (6); 1972, c. 1, s. 1.

(5) 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.

(6) The Minister at any time for any purpose related to the administration or enforcement of this Act and the regulations may require a dealer to complete an inventory report showing all tobacco in his possession in respect of which the tax imposed by this Act has not been paid. R.S.O. 1970, c. 463, s. 9 (7, 8).

15.—(1) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, authorize any person to make such inquiry as the Minister considers necessary with reference thereto.

(2) For the purpose of an inquiry under subsection (1), 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 such inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 463, s. 10; 1971, c. 49, s. 18.

(3) For the purpose of determining if the tax imposed by this Act has been or may be evaded, any person thereunto authorized by the Minister may stop and detain in Ontario any commercial motor vehicle as defined in the Highway Traffic Act, including any trailer attached to such vehicle, and may examine the contents thereof including any cargo, manifests, records, accounts, vouchers, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations and may seize and take away any of such manifests, records, accounts, or vouchers and retain them until they are produced in any court proceedings.
(4) Where more than 10,000 cigarettes are found in the control of a person who does not hold a subsisting wholesale dealer's permit issued under this Act or a subsisting vendor's permit issued under the Retail Sales Tax Act or are being transported or stored in Ontario by or for such person, any person thereunto authorized by the Minister may, subject to subsections (5), (6) and (7), seize, impound, hold and dispose of such cigarettes.

(5) Cigarettes seized under subsection (4) shall be forfeited to Her Majesty to be disposed of as the Minister directs unless, within thirty days after their seizure, the person from whom they have been seized furnishes security to the Minister for the collection of the tax imposed by this Act in respect of the consumption of the cigarettes or has applied for and been issued a wholesale dealer's permit under this Act.

(6) If within thirty days after the seizure of cigarettes under subsection (4) the person from whom they have been seized furnishes security to the Minister or applies for and is issued a wholesale dealer's permit, the cigarettes so seized shall be returned to such person upon payment by him of all costs incurred by the Minister in seizing, impounding and holding the cigarettes.

(7) Where, under subsection (5), a sale of cigarettes is directed by the Minister, the proceeds of such sale remaining after payment of the costs incurred by the Minister in seizing, storing and disposing of the cigarettes shall be applied firstly against the indebtedness under this Act, if any, of the person in whose control the cigarettes were prior to seizure and shall then be paid into the Consolidated Revenue Fund. 1980, c. 27, s. 2.

16.—(1) Upon default of payment by any person of any amount payable, or to be remitted under this Act as tax, interest, or a penalty, other than a penalty imposed as a result of a prosecution for an offence under this Act,

(a) the Minister may bring an action for recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred and shall be tried without a jury; and

(b) the Minister may issue a warrant directed to the sheriff of any county or district in which any property of a person liable to make a payment or remittance under this Act is located or situate for the amount of the tax, interest and penalty or any
of them owing by him, together with interest there-on from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution—issued out of the Supreme Court. 1977, c. 11, s. 4, part; 1979, c. 17, s. 5.

(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.

(3) The use of any of the remedies provided by this section does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of Her Majesty in right of Ontario. 1977, c. 11, s. 4, part.

17.—(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 requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount he was required under this section to pay to the Treasurer, whichever is the lesser.

(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 and 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 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.

(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. 11, s. 4, part.

18.—(1) Every person designated a collector according to the regulations who fails to remit with any return he is required to file under this Act or the regulations the amount of taxes collectable or payable by him shall, when assessed therefor, 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.

(2) Every person designated a collector according to the regulations who fails to complete the information required on any
return to be delivered under the Act or the regulations 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 a dealer or consumer;

(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 dealer or consumer;

(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 per cent of the tax that should have been declared to be collectable or payable or that was sought to be evaded and to not more than double the amount of such tax or to imprisonment for a term of not more than two years or to both. 1980, c. 27, s. 3.

19. Every dealer who has failed to collect tax that he is responsible to collect under this Act or the regulations shall pay a penalty, when assessed therefor, equal to not more than twice the amount of tax that he failed to collect. 1977, c. 11, s. 4, part.

20. Any officer, director or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in the commission of any act that is an offence under this Act for which the corporation would be liable for prosecution is guilty of an offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. 1977, c. 11, s. 4, part.
21.—(1) Every person who sells tobacco in Ontario for resale without holding a subsisting wholesale dealer’s permit issued under this Act shall, when assessed therefor, pay a penalty computed as follows:

(a) $3 for every carton of cigarettes so sold by him;

(b) 1 cent for every gram or part thereof of any tobacco, other than cigarettes or cigars, so sold by him;

(c) 50 per cent of the price at which each cigar was so sold by him.

(2) Every person who sells tobacco in Ontario for resale without holding a subsisting wholesale dealer’s permit issued under this Act is guilty of an offence and on conviction is liable to a fine of not less than the amount of tax that would be exigible on the tobacco so sold by him if such tobacco had been purchased by a consumer and not more than an amount equal to twice the amount of such tax so ascertained or to imprisonment for a term of not more than two years. 1980, c. 27, s. 4.

22.—(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, provided that the information and written statements obtained by such government for the purpose of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Minister, and provided that the information and written statements will not be used for any purpose other than the administration or enforcement of a federal or provincial law that provides for the imposition of a tax. R.S.O. 1970, c. 463, s. 12.

23.—(1) Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on conviction is liable, for a first
offence, to a fine of not less than $100 and not more than $500 or to a term of imprisonment of not less than ten days and not more than thirty days, or to both, and, for any subsequent offence, to a fine of not less than $500 and not more than $1,000 or to a term of imprisonment of not less than three months and not more than six months, or to both. R.S.O. 1970, c. 463, s. 13.

(2) Every person who purchases tobacco for resale from any person who is not designated a collector according to the regulations is guilty of an offence and on conviction is liable to a fine of not less than the amount of tax that would be exigible on the tobacco so purchased by him if such tobacco had been purchased by a consumer and not more than an amount equal to twice the amount of such tax so ascertained and is in addition liable to imprisonment for a term not exceeding six months. 1977, c. 11, s. 5.

(3) Every person who contravenes section 14 is guilty of an offence and on conviction is liable to a fine of $50 for each day during which the default continues. 1980, c. 27, s. 5.

24. Any information with respect to any contravention of this Act or the regulations may be laid within three years from the time when the matter of such information arose, and not afterwards. R.S.O. 1970, c. 463, s. 14.

25. The fines imposed for offences under this Act are payable to the Treasurer. R.S.O. 1970, c. 463, s. 15.

26.—(1) Where a person has remitted to the Treasurer a greater amount of money for a period than was required by this Act to be remitted for that period, or a greater amount than was payable by the person, the Treasurer shall either refund the overpayment or, at the option of the Minister, apply the amount of the overpayment to liability of the person with respect to a previous or subsequent period, in which latter case the Minister shall notify the person of such action. 1977, c. 11, s. 6, part.

(2) No refund under subsection (1) shall be made unless an application for the refund is made to the Minister within three years from the date of payment of the amount a refund of which is sought, and unless evidence satisfactory to the Minister is furnished to establish the entitlement of the applicant to the refund claimed.

(3) Where, as the result of an assessment or reassessment or the final decision of a court in proceedings commenced under section 13, the person assessed or reassessed
or the appellant, as the case may be, has overpaid the tax, interest or penalty payable under this Act, the amount of such overpayment shall be refunded or applied to liability of such person in accordance with subsection (1) notwithstanding the limitation contained in subsection (2). 1979, c. 17, s. 6.

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

(5) Where by a decision of the Minister under section 12 or by a decision of the court it is finally determined that the tax payable under this Act by a person is less than the amount assessed by the assessment to which objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment of tax, the interest payable under subsection (4) on the overpayment shall be computed at the rate prescribed by the regulations. 1977, c. 11, s. 6, part.

27. Any amount refunded under this Act in excess of the amount to which the person receiving the refund was entitled shall be deemed to be tax owing to the Treasurer, and the sections of this Act relating to the assessment (including objection and appeal therefrom) and collection of taxes apply with necessary modifications to the said amount. 1977, c. 11, s. 6, part.

28.—(1) The Lieutenant Governor in Council may make regulations,

(a) providing for the collection of the tax imposed by this Act and designating the persons by whom it is to be collected;

(b) providing for compensation to be paid to dealers out of tax collected by them in cases where a dealer is required to complete an inventory under subsection 14 (6), and prescribing the conditions under which such compensation will be paid;

(c) requiring security to be furnished by the persons who collect the tax imposed by this Act and prescribing the form and amount of the security to be furnished;
(d) providing for the accounting for and paying over of the tax imposed by this Act, and regulating the time and manner of such accounting and payment;

(e) prescribing the returns and statements to be made by importers, manufacturers and dealers of tobacco, the information to be given in such returns and statements, and by whom and in what manner they are to be made;

(f) providing for the extension of time for making returns;

(g) establishing a system of permits for wholesale dealers;

(h) respecting agreements between the Minister and the persons who collect the tax imposed by this Act, and providing for their use;

(i) prescribing the rate of interest payable on amounts payable to or to be remitted to the Treasurer under this Act;

(j) excluding any class of tobacco products from this Act;

(k) exempting any class of persons from the payment of the tax imposed by this Act;

(l) providing for the refund of the whole or any part of the tax paid under this Act, and prescribing the records and material to be furnished upon any application for a refund;

(m) providing for the appointment of such inspectors, officers and other persons as may be necessary for the proper carrying out of this Act;

(n) 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;

(o) respecting any matter necessary or advisable to carry out effectively the intent and purpose of
this Act. R.S.O. 1970, c. 463, s. 16; 1972, c. 1, s. 1; 1972, c. 16, s. 2; 1976, c. 24, s. 3 (1, 2); 1977, c. 11, s. 7 (1); 1979, c. 17, s. 7.

(2) The Minister may make regulations prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain. 1977, c. 11, s. 7 (2).

(3) A regulation is, if it so provides, effective with reference to a period before it was filed. 1976, c. 24, s. 3 (3).