

1970

## c 427 Security Transfer Tax Act

Ontario

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## CHAPTER 427

**The Security Transfer Tax Act****1.** In this Act,Interpre-  
tation

- (a) "Minister" means the Minister of Revenue;
- (b) "regulations" means the regulations made under this Act;
- (c) "security" includes,
  - (i) any share of capital stock or debenture stock and any bond or debenture issued by any association, company, corporation or government,
  - (ii) any participating interest in the operations or profits of any association, company or corporation represented by certificates or other instruments of title capable of being sold, transferred or assigned, including mineral deeds, oil royalties, syndicate units and fixed investment trust shares issued by a trustee and representing an equitable ownership in deposited securities, and
  - (iii) guaranteed trust certificates and investment receipts;
- (d) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1960, c. 364, s. 1, *amended*.

**2.** There shall be imposed, levied, collected and paid to Her Majesty for the uses of Ontario, a tax,Tax  
imposed

- (a) upon every change of ownership consequent upon the sale, transfer or assignment of a security made or carried into effect in Ontario;
- (b) upon every order given to any person, firm or corporation in Ontario for the sale, transfer or assignment of a security when such order is to be executed outside Ontario;
- (c) upon every transfer or delivery of a security exchanged for another security in Ontario, provided that this clause does not apply where a company through a reorganization of its capital structure calls in or redeems part or all of its issued securities and replaces them by other securities issued by such company to the same security holders;

- (d) upon every delivery in Ontario of a security held in Ontario for the account of a non-resident of Canada consequent upon the sale, transfer or assignment executed in or outside Ontario by or for such non-resident; and
- (e) upon every payment made in Ontario, consequent upon the sale, transfer or assignment of a security that has been executed outside Ontario,

provided that only one of the clauses contained in this section applies to the same transaction. R.S.O. 1960, c. 364, s. 2.

Interpre-  
tation

**3.**—(1) In this section, “share” and “share of stock” include a share of any participating interest in the operations or profits of any association, company or corporation and to a guaranteed trust certificate and an investment receipt.

Amount of  
tax

(2) The tax imposed by section 2 is as follows:

- (a) 3 cents for every \$100 or fraction thereof, of the par value of a bond, debenture or debenture stock;
- (b) for every share sold, transferred or assigned at a price or valuation of,
  - (i) over \$150 per share, 4 cents per share, plus one-tenth of 1 per cent of the price or value of such share in excess of \$150,
  - (ii) over \$75 per share, but not more than \$150 per share, 4 cents per share,
  - (iii) over \$50 per share, but not more than \$75 per share, 3 cents per share,
  - (iv) over \$25 per share, but not more than \$50 per share, 2 cents per share,
  - (v) over \$5 per share, but not more than \$25 per share, 1 cent per share,
  - (vi) \$1 per share, but not more than \$5 per share, one-quarter of 1 cent per share, and
  - (vii) less than \$1 per share, one-tenth of 1 per cent of the price or value; and
- (c) 3 cents for every \$100 or fraction thereof of the price or value of each syndicate unit, mineral deed, oil royalty, guaranteed trust certificate or investment receipt.

Determina-  
tion of value

(3) Except as hereinafter provided, if a change of ownership otherwise than by sale at the current market price is effected, of any share of stock, such change of ownership is subject to the tax imposed by this Act, computed on the basis of the current market price of such share of stock. R.S.O. 1960, c. 364, s. 3 (1-3).

(4) In any case where a current market price has not been established by recent sales, or where it is difficult to ascertain the value of the shares of stock, the Minister may fix a price which shall be the price on which the tax shall be paid. R.S.O. 1960, c. 364, s. 3 (2), *amended*.

**4.** The tax imposed by this Act is payable in security transfer tax stamps or cash by the vendor, transferor, assignor or, in the case of transfers and deliveries referred to in clauses *c* and *d* of section 2, by the person, company, corporation, bank or trust company making delivery. R.S.O. 1960, c. 364, s. 4.

**5.—(1)** The following transactions are not subject to the tax imposed by this Act:

- (a) the sale, transfer or assignment of any bond, debenture or share of a debenture stock issued by or guaranteed as to principal and interest by Canada or any province of Canada or any municipality or school board in Ontario;
- (b) the allotment by any association, company or corporation of its shares in order to effect an issue thereof, and the first issue of a bond, debenture, share of debenture stock or of any participating interest in the operations or profits of any association, company or corporation, represented by certificates or other instruments of title capable of being sold, transferred or assigned, including mineral deeds, oil royalties, fixed investment trust shares issued by a trustee and representing an equitable ownership in deposited securities;
- (c) the first issue of a guaranteed trust certificate or investment receipt; and
- (d) the transfer or assignment of a security made by a borrower *bona fide* as collateral security for an advance or loan and the retransfer or reassignment of such security to the borrower, provided that upon the property in the security passing to the lender as a result of the failure of the borrower to satisfy such advance or loan a change of ownership shall be deemed to have occurred and is subject to the tax imposed by this Act.

(2) For the purposes of this section the underwriting of a bond, debenture or debenture stock, or the first transaction whereby ownership or control is established, shall be deemed to be a first issue thereof. R.S.O. 1960, c. 364, s. 5.

**6.—(1)** Every person liable under this Act or the regulations to collect and pay the tax imposed by this Act shall keep such books and records at his place of business in Ontario as the Minister may require, and such books and records shall be open at

all reasonable times to the inspection of the officers of the Department of Revenue or such other persons as may be authorized by the Minister to inspect them.

Failure to  
keep books

(2) If any person liable to maintain books and records for the purposes of this Act has, in the opinion of the Minister, failed to maintain adequate books and records, the Minister may assess the tax payable by such person and the tax so assessed shall be deemed to be due and payable forthwith.

Preventing  
inspections

(3) Any person who in any way prevents or attempts to prevent any such officer or other person from having access to or inspecting any such books and records, and any person who being liable to keep such books and records refuses to produce them for inspection as required by subsection 1, is guilty of an offence and on summary conviction is liable to a fine of not less than \$500 and not more than \$5,000 and any fine so recovered is payable to the Treasurer. R.S.O. 1960, c. 364, s. 6, *amended*.

Transaction  
by Ontario  
broker  
R.S.O. 1970,  
c. 426

**7.** Every transfer, sale or assignment, ordered, made or carried into effect through a person engaged in the business of a broker within the meaning of *The Securities Act* in Ontario either for himself or on behalf of another person, shall be deemed to be ordered, made or carried into effect in Ontario unless the Minister certifies that the contrary has been established to his satisfaction. R.S.O. 1960, c. 364, s. 7, *amended*.

Collection  
of tax

**8.—**(1) Every stock broker, bond dealer, bank, trust company, person, company or corporation selling, transferring or assigning a security or taking or making delivery of a security on behalf of any person, shall collect from such person, the tax imposed by this Act and remit the amount thereof if paid in money, to the Treasurer in accordance with the regulations, and for such purpose the stock broker, bond dealer, bank, trust company, person, company or corporation is the agent of the Treasurer.

Penalty for  
failure to  
collect tax

(2) Every stock broker, bond dealer, bank, trust company, person, company or corporation that fails to comply with the provisions of subsection 1 is liable, in addition to the payment of the tax collected or to be collected, to a penalty of \$500. R.S.O. 1960, c. 364, s. 8.

Annual  
return

**9.—**(1) Every company or corporation, including every extra-provincial company or corporation that has a branch or an agency, or an office of any kind in Ontario, shall on or before the last day of the month ending six months following the close of its fiscal year make an annual return to the Minister showing every sale, transfer or assignment of any registered security issued by such company or corporation made or carried into effect in Ontario, together with the amount of tax collected under this Act.

(2) The return shall be verified by a certificate certifying that the statements in the return are in agreement with the books and records of the company or corporation, and the certificate shall be signed by the president or some other officer having personal knowledge of the affairs of the company or corporation, and in the case of an extra-provincial company, by the manager or chief agent of the company in Ontario, or by such other person or persons connected with the company as the Minister may require.

Verification of return

(3) In the case of a company or corporation, the shares, bonds, or debenture stock of which are sold and transferred upon an incorporated stock exchange, the Minister may accept a return from such exchange showing the total amount of such sales, transfers or assignments and the total amount of the tax collected under this Act.

Record of stock exchange

(4) In the case of a company or corporation that has duly appointed a trust company as transfer agent for its shares, bonds or debenture stock, the Minister may accept, in lieu of the annual return of such company, a statement from the transfer agent to the effect that the tax on all transfers made during the preceding year has been accounted for in accordance with this Act and the regulations.

Records of transfer agent

(5) If a company or corporation makes default in complying with the provisions of this section, the company or corporation is liable to a penalty of \$20 for every day during which the default continues, and every director, manager or secretary of the company or corporation who wilfully authorizes or permits such default is liable to a like penalty. R.S.O. 1960, c. 364, s. 9, *amended*.

Penalty

**10.** Any company or corporation entering or permitting the entry in any book or register under its control of any sale, transfer, or assignment of any security issued by it, unless the tax has been paid when such entry is made, is liable to a penalty of not less than an amount equal to the amount of the tax due and a further amount of not less than \$20 and not more than \$50. R.S.O. 1960, c. 364, s. 10.

Penalty for permitting entry in register

**11.** For the purpose of obtaining any information that he may consider necessary for the purposes of this Act, the Minister may,

Obtaining of information

- (a) demand from any company or corporation or any officer or employee thereof, or any other person, such information as may be indicated in a letter delivered or sent by prepaid post to such company, corporation, officer, employee or other person and every such company, corporation, officer, employee or other person shall furnish to the Minister all such information that he has in his possession or under his control, in writing, within one month of the delivery or sending of such letter; or

- (b) appoint any officer of the Department of Revenue to make such inquiry as may be necessary to obtain such information and for the purposes of such inquiry such officer has all the power and authority that may be conferred upon a commissioner under *The Public Inquiries Act*,

R.S.O. 1970,  
c. 379

provided that any act done or proceeding taken under either of the clauses of this section does not preclude the Minister from proceeding under the other clause. R.S.O. 1960, c. 364, s. 11.

Liability  
for tax

**12.** Notwithstanding any prior assessment or if no assessment has been made, the person liable thereto shall continue to be liable for any tax imposed by this Act upon a change of ownership of a share, bond or other security and to be assessed therefor and the Minister may at any time assess, reassess or make additional assessments upon any person for tax and penalties. R.S.O. 1960, c. 364, s. 12, *amended*.

Demand  
for payment

**13.** Where the Minister finds any tax to be owing by any person he may send a demand for the payment of such tax to such person by prepaid post and such person shall pay the amount of the tax to the Treasurer within thirty days of the sending of such demand and in default of payment of such amount, a penalty of 5 per cent of the amount of tax payable shall be added thereto and thereafter a further penalty of 1 per cent per month shall be added for each additional month or portion thereof during which the tax and penalty remain unpaid. R.S.O. 1960, c. 364, s. 13, *amended*.

Tax payable  
outside  
Ontario

**14.** When it is shown to the satisfaction of the Minister that any change of ownership consequent upon the sale, transfer or assignment of a security, or upon any other transaction mentioned in section 2, is subject to a tax outside Ontario and is subject to a similar tax under the laws of Ontario, he may make an allowance from the tax payable in Ontario in respect of the tax so paid. R.S.O. 1960, c. 364, s. 14, *amended*.

Penalty for  
false state-  
ment

**15.** Every person who makes any return or furnishes any information to the Minister under this Act containing any false statement is liable to a penalty of not more than \$10,000. R.S.O. 1960, c. 364, s. 15, *amended*.

Penalty for  
contravention

**16.** Any person who, being thereto liable, neglects or refuses to pay the tax imposed by this Act, or who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is liable for every such contravention to a penalty of not less than an amount equal to the amount of the tax due and not more than an amount equal to \$500 more than the amount of the tax due; provided that where no tax is due by such

person the penalty is not less than \$50 and not more than \$500. R.S.O. 1960, c. 364, s. 16.

**17.** The tax imposed by this Act and the penalties imposed by sections 8, 9, 10, 13, 15 and 16 may be recovered by an action 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 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. R.S.O. 1960, c. 364, s. 17, *amended*. Recovery of tax and penalties

**18.** If any doubt or dispute arises as to the liability of a person to pay a tax or any portion of a tax demanded under the authority of this Act, or if owing to special circumstances it is considered inequitable to demand payment of the whole amount imposed by this Act, the Minister may accept such amount as he may consider proper, and if the tax demanded has been paid under protest, he may refund it or any part thereof. R.S.O. 1960, c. 364, s. 18, *amended*. Dispute as to liability for tax

**19.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) authorizing or requiring the Deputy Minister of Revenue or any other officer of the Department of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (b) determining what constitutes a sale, transfer or assignment within the meaning of this Act;
- (c) prescribing in any case or class of cases the manner in which and the persons by whom the amount of any tax shall be computed and collected for and on behalf of Her Majesty;
- (d) providing for the sale of stamps at a discount not exceeding 3 per cent to such persons and for such periods as he considers advisable;
- (e) providing for the payment of a commission not exceeding 3 per cent to agents of the Treasurer under section 8 who collect the tax in money;
- (f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 364, s. 19, *amended*.

**20.** Declarations and affidavits in connection with this Act may be taken before any person having authority to administer an oath, or before any person specifically authorized for that Affidavits and declarations

purpose by the Lieutenant Governor in Council, but any person so specifically authorized shall not charge any fee therefor. R.S.O. 1960, c. 364, s. 20.

Information obtained under Act

**21.**—(1) No person employed in the service of Her Majesty 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.

Offence

(2) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 and any fine so recovered is payable to the Treasurer. R.S.O. 1960, c. 364, s. 21.

