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c 13 The Retail Sales Tax Amendment Act, 1977

Ontario

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CHAPTER 13

An Act to amend The Retail Sales Tax Act

Assented to July 12th, 1977

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

1. Paragraph 7 of section 1 of *The Retail Sales Tax Act*, being chapter 415 of the Revised Statutes of Ontario, 1970, is amended by inserting after "means" in the first line "an amusement park or" and by inserting after "performance" in the sixth line "or entertainment". s. 1, par. 7,
amended

2. (1) Paragraph 2 of subsection 2 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 23, section 2, is repealed and the following substituted therefor: s. 2(2), par. 2,
re-enacted
 2. prepared meals sold at a price of over \$6.00.

- (2) Subsection 4 of the said section 2 is repealed and the following substituted therefor: s. 2(4),
re-enacted
 - (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 \$3.00. Tax on
admission to
a place of
amusement

- (3) Subsection 6 of the said section 2 is repealed and the following substituted therefor: s. 2(6),
re-enacted
 - (6) 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 20, it is established that the determination is unreasonable. Deter-
mination of
fair value

s. 4 (1),
amended

- 3.—(1) Subsection 1 of section 4 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 23, section 3, is further amended by striking out “as defined in *The Bulk Sales Act*” in the second line and inserting in lieu thereof “to which *The Bulk Sales Act* applies”.

s. 4 (2),
amended

- (2) Subsection 2 of the said section 4 is amended by striking out “as defined in *The Bulk Sales Act*” in the first and second lines and inserting in lieu thereof “to which *The Bulk Sales Act* applies”.

s. 5 (1), par. 2,
amended

- 4.—(1) Paragraph 2 of subsection 1 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 23, section 4 and amended by 1976, chapter 23, section 3, is further amended by striking out “\$5.00” in the second line and in the fourth line, as inserted by the amendment of 1976, and inserting in lieu thereof in each instance “\$6.00”.

s. 5 (1), par. 2a,
amended

- (2) Paragraph 2a of subsection 1 of the said section 5, as enacted by the Statutes of Ontario, 1973, chapter 23, section 4 and amended by 1976, chapter 23, section 3, is further amended by striking out “\$5.00” in the sixth line, as inserted by the amendment of 1976, and inserting in lieu thereof “\$6.00”.

s. 5 (1), par. 24b,
re-enacted

- (3) Paragraph 24b of subsection 1 of the said section 5, as enacted by the Statutes of Ontario, 1976, chapter 23, section 3, is repealed and the following substituted therefor:

24b. 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) heat pumps for use principally to provide heat in the heating system of a building,

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

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

- (e) solar furnaces, panels and tubes specially designed to collect and convert solar energy into heat for use in a solar heating system,
- (f) windmills and wind-powered generators that produce mechanical or electrical energy, and pumps and generators specially designed for use directly with such devices,
- (g) timer-controlled thermostats for heating systems in buildings and automatic timer controls for electrical equipment,
- (h) wood-burning stoves and wood-burning furnaces, or
- (i) wind deflectors for trucks;

24c. 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.

5. Clauses *a* and *b* of subsection 1 of section 11 of the said Act, ^{s. 11 (1) (a, b), re-enacted} as enacted by the Statutes of Ontario, 1975, chapter 9, section 5, are repealed and the following substituted therefor:

(a) \$700; 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 \$75 or more,
- (ii) \$3 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 \$3 and is less than \$75, 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 \$3,

s. 18,
amended

6. Section 18 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 9, section 7, is further amended by adding thereto the following subsections:

Trust money
in liquidation
proceedings

(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, 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.

Minister's
certificate

R.S.C. 1970,
c. B-3

(3) Every person who, as assignee, liquidator, administrator, receiver, receiver-manager, 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, administrator, receiver, receiver-manager, 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.

s. 30 (2),
amended

7. Subsection 2 of section 30 of the said Act is amended by inserting after "15" in the fourth line "or 15a".

s. 31,
amended

8. Section 31 of the said Act is amended by adding thereto the following subsections:

(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.

Garnishment
of wages
R.S.O. 1970,
c. 486

(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.

Failure
to remit

9.—(1) This Act, except section 1, subsections 1 and 2 of section 2, and sections 4, 5 and 7, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Section 7 shall be deemed to have come into force on the 7th day of April, 1976.

Idem

(3) Section 5 shall be deemed to have come into force on the 1st day of April, 1977.

Idem

(4) Section 1, subsections 1 and 2 of section 2 and section 4 shall be deemed to have come into force on the 20th day of April, 1977.

Idem

10. The short title of this Act is *The Retail Sales Tax Amendment Act, 1977*.

Short title

