

1975

c 10 The Motor Vehicle Fuel Tax Amendment Act, 1975

Ontario

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CHAPTER 10

**An Act to amend
The Motor Vehicle Fuel Tax Act**

Assented to April 24th, 1975

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

- 1.—(1) Section 2 of *The Motor Vehicle Fuel Tax Act*, being ^{s. 2, amended} chapter 282 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:

(3a) Where the Minister is satisfied that the applicant ^{Restricted registration certificates} for a registration certificate will be acquiring fuel principally,

- (a) for resale by the applicant;
- (b) to be used by the applicant in a manner or for a purpose that will render such fuel exempt from tax by virtue of this Act or the regulations, or that will entitle the applicant to apply to the Minister for a full refund of the tax imposed by this Act on such fuel; or
- (c) to be disposed of or consumed by the applicant in a manner prescribed by the regulations for the purpose of this subsection,

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

- (2) The said section 2 is further amended by adding thereto ^{s. 2, amended} the following subsection:

(7) Every registrant who contravenes any condition or ^{Offence} restriction contained in a registration certificate issued under this section is guilty of an offence and on summary

conviction is liable to a penalty of not less than \$100 and not more than \$1,000 and the amount of the tax, if any, that would have been payable by such registrant had he complied with the condition or restriction that he contravened.

s. 7 (2)
amended

2. Subsection 2 of section 7 of the said Act is amended by striking out "who is not a purchaser" in the second and third lines and inserting in lieu thereof "unless the fuel is supplied by delivering it directly into the fuel tank of a motor vehicle licensed or required to be licensed under *The Highway Traffic Act*".

s. 9 (2),
amended

- 3.—(1) Subsection 2 of section 9 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 147, section 5, is further amended by adding at the commencement thereof "Subject to subsection 3".

s. 9,
amended

- (2) The said section 9, as amended by the Statutes of Ontario, 1972, chapter 147, section 5, is further amended by adding thereto the following subsections:

Where refund
of tax
claimed

(3) Where, in a return delivered by a registrant in accordance with this Act and the regulations, it is shown that tax under this Act is payable by the registrant with respect to his use after the 7th day of April, 1975 of fuel, and, where, at the time such return is delivered to the Minister, the registrant also applies for a refund pursuant to section 18 of some or all of such tax on fuel so used by him, he may, notwithstanding subsection 1, retain the amount a refund of which he claims until the refund for which he has applied is, in whole or in part, approved or refused by the Minister and notification thereof is sent to the registrant, and upon his being notified of the refusal to refund any amount a refund of which has been claimed, the registrant shall, with his next return or at such earlier time as is specified in the notification, transmit to the Treasurer any amount a refund of which has been refused together with interest thereon at the rate of 9 per cent per annum or such other rate as is prescribed by the regulations for the period during which such amount has been retained by the registrant, and upon his being notified of the approval of the refund of any amount a refund of which has been claimed, the registrant may, subject to subsection 4, retain for his own use such amount so approved.

Recovery
of excess
refund

(4) Any amount refunded under this Act in excess of the amount to which the person receiving the refund was entitled shall be deemed to be tax under this Act owing to the Crown, and the provisions of this Act relating to the assessment (including objection and appeal therefrom) and to collection of taxes apply *mutatis mutandis* to the said amount.

4. Section 13 of the said Act is amended by adding thereto the following subsection: s. 13, amended

(2) Any person who, being an officer, director or agent of a corporation, directed, authorized, assented to, acquiesced in or participated in the commission of any act that is an offence under this Act and for which the corporation would be liable for prosecution, is guilty of an offence and on summary conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. Officers, etc., of corporations

5. Section 17 of the said Act is repealed and the following substituted therefor: s. 17, re-enacted

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

6. Section 18 of the said Act, as amended by the Statutes of Ontario 1972, chapter 14, section 4 and 1972, chapter 147, section 9, is repealed and the following substituted therefor: s. 18, re-enacted

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

(a) in the business of farming or commercial fishing; or

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

but no refund of tax may be made with respect to fuel used to operate a motor vehicle licensed or required to be licensed under *The Highway Traffic Act*, or used in any motor vehicle operated or intended to be operated principally for the pleasure or recreation of its owner or operator, or with respect to any fuel purchased prior to the 8th day of April, 1975 by the person claiming a refund under this section. R.S.O. 1970, c. 202

(2) A refund under this Act shall not be made unless an application therefor, accompanied by properly receipted invoices, is received by the Minister within two years of the date when the tax a refund of which is claimed was paid, and there shall be furnished to the Minister such evidence as he requires to satisfy him of the entitlement of the applicant to the refund claimed. Application for refund

Over-
payments

(3) Where a registrant has transmitted to the Treasurer an amount in excess of the tax collectable by him under this Act and of the taxes, interest and penalties payable by him under this Act, such excess amount shall be refunded to him upon his application therefor made within two years of the date of his payment of such excess amount, and where any overpayment of tax by a registrant or a purchaser is the result of an assessment or reassessment under this Act or of the final decision of a court in proceedings commenced under section 10*a*, such overpayment shall, notwithstanding subsection 2, be refunded without an application therefor.

Exception

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

s. 21 (e);
re-enacted

7.--(1) Clause *e* of section 21 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 14, section 5, is repealed and the following substituted therefor:

(*e*) prescribing purposes for which fuel is used that are excluded from the application of section 18.

s. 21,
amended

(2) The said section 21, as amended by the Statutes of Ontario 1972, chapter 14, section 5 and 1972, chapter 147, section 11, is further amended by adding thereto the following clauses:

(*j*) prescribing records to be kept by registrants, information to be shown in a return to be delivered by a registrant, and prescribing times or periods of time, in lieu of those mentioned in section 8, at which, or with respect to which, returns shall be delivered by any registrant or class of registrants;

(*k*) prescribing, for the purpose of subsection 3*a* of section 2, any manner of disposing of or consuming fuel;

(*l*) providing for the calculation and payment of interest on amounts paid in excess of the tax imposed by this Act, and prescribing the rate of such interest;

(*m*) providing for the refund in special circumstances of the whole or any part of the tax imposed by this Act, and prescribing the terms and conditions under which such refund may be made;

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

8. This Act shall be deemed to have come into force on the 8th day of April, 1975. Commencement
9. This Act may be cited as *The Motor Vehicle Fuel Tax Amendment Act, 1975*. Short title

