

1950

c 170 Hospitals Tax Act

Ontario

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CHAPTER 170

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

- (a) "admission" includes entry to any place of amusement or place of entertainment where any charge is made or fee is collected before or after entry;
- (b) "Controller" means Controller of Revenue;
- (c) "entertainment by one or more paid performers" where the entertainment is incidental to the service of food or the service of liquor, beer or wine, includes,
 - (i) whether or not facilities for dancing are provided, any performance that is not a musical performance or is not wholly a musical performance, and includes,
 - (ii) where facilities for dancing are not provided, a musical performance by three or more vocalists, or by one instrumentalist and two or more vocalists, or by a band, orchestra or group of instrumentalists if more than one musical performer who is not a regular member of such band, orchestra or group performs therewith, and in this subclause "regular member" means a performer who has a contract to perform regularly with such group of performers and, pursuant to such contract, is paid for his services by the leader of the group or by the employer of such group on not less than a weekly basis whether or not such group performs during each week for which such performer is paid;
- (d) "facilities for dancing" means a cleared dance floor when music for dancing is provided by any means;
- (e) "owner" means a person who operates a place of amusement or a place of entertainment, or both;
- (f) "place of amusement" means any premises or place, whether enclosed or not, where any cinematograph or moving picture machine or similar apparatus is operated, or where any theatrical performance, carnival, circus, side-show, menagerie, concert, rodeo, exhibition, horse race, athletic contest or other performance is staged or held, and to which admission is

granted upon payment of a price of admission through the sale of tickets or otherwise;

- (g) "place of entertainment" means any premises or place, whether enclosed or not,
- (i) where facilities for dancing are provided with the service of food or the service of liquor, beer or wine, or
 - (ii) where entertainment by one or more paid performers is provided with the service of food or the service of liquor, beer or wine,

but no premises or place shall be deemed to be a place of entertainment on any day until facilities for dancing are provided or entertainment by one or more paid performers is provided and, thereafter, such premises or place shall be a place of entertainment until every condition that made the premises or place a place of entertainment has ceased;

- (h) "price of admission" includes every charge made to or fee collected from a purchaser by an owner before or after admission to a place of amusement or place of entertainment and includes, when it is for admission to a place of entertainment, every cover charge and every charge for the service of food or the service of liquor, beer or wine;
- (i) "purchaser" means any person who purchases admission for himself to any place of amusement or place of entertainment and includes any person for whom admission to any place of amusement or place of entertainment is purchased by any other person;
- (j) "regulations" means regulations made under this Act;
- (k) "service of liquor, beer or wine" means the service of liquor, beer or wine to a purchaser in a place from which, in order to use facilities for dancing or to view entertainment by one or more paid performers, he is not required to pass through a doorway or through more than one doorway;
- (l) "service of food" means the service of food or beverages, other than liquor, beer or wine, to the purchaser at a table in a place from which, in order to view entertainment by one or more paid performers, he is not required to pass through a doorway or through more than one doorway;
- (m) "Treasurer" means Treasurer of Ontario. 1950, c. 27, s. 1.

2.—(1) No owner shall sell admission to a place of amuse- Licences.
ment or place of entertainment unless a licence therefor has
been, upon his application, issued to him under this Act, and
unless the licence is in force at the time of sale. 1948, c. 41,
s. 2 (1); 1950, c. 27, s. 2.

(2) The licence shall remain in force until the 31st day of Expiry.
March next following the date of issue.

(3) The application for the licence shall be filed with the Application.
Controller.

(4) The licence shall be granted by the Treasurer, or by Granting of
such officer as he may appoint, upon payment of \$1 by the licences.
owner to the Treasurer for the use of His Majesty in
right of Ontario.

(5) The licence shall be placed in public view in the office of Posting up
the owner at which admission is sold to the purchaser. of licences.

(6) The Treasurer may cancel or suspend the licence of, Cancellation
or may refuse to issue a licence to, any owner who has been of licences.
convicted of an offence under this Act.

(7) The application for a licence shall contain the name and Information.
address of the owner, and where the owner is a partnership, the
names and addresses of each partner, and where the owner is a
corporation, club, association or syndicate, the name and
address of the president, if he resides in Ontario, and if not,
the name and address of its resident manager or representative,
and the address of its chief place of business in Ontario. 1948,
c. 41, s. 2 (2-7).

3.—(1) Every purchaser of admission to a place of amuse- Tax on
ment shall pay to the Treasurer for the use of His Majesty admission
in right of Ontario a tax on the price of admission as follows: to places of
amusement.

Price of Admission		Tax
More than 15 cents and not more than 18 cents	—	2 cents
" " 18 " " " " " "	23	" — 3 "
" " 23 " " " " " "	31	" — 4 "
" " 31 " " " " " "	36	" — 5 "
" " 36 " " " " " "	44	" — 6 "
" " 44 " " " " " "	50	" — 7 "
" " 50 " " " " " "	57	" — 8 "
" " 57 " " " " " "	64	" — 9 "
" " 64 " " " " " "	70	" —10 "
" " 70 " " " " " "	77	" —11 "
" " 77 " " " " " "	83	" —12 "
" " 83 " " " " " "	90	" —13 "
" " 90 " " " " " "	96	" —14 "
" " 96 " " " " " "	99	" —15 "

and where the price of admission is more than 99 cents, a tax at the rate of 15 per cent calculated upon the price of admission, and in the calculation 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.

Tax on admission to places of entertainment.

(2) Every purchaser of admission to a place of entertainment shall pay to the Treasurer for the use of His Majesty in right of Ontario,

(a) a tax at the rate of 15 per cent calculated upon the price of admission where such price is less than \$6.66; and

(b) a tax of \$1 where such price is \$6.66 or more,

and in the calculation under clause *a*, 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. 1950, c. 27, s. 3.

Collection.

4.—(1) Every owner shall, as the agent of the Treasurer, collect the tax imposed by this Act.

Arrangements for collection.

(2) For the purpose of collecting the tax, the Treasurer may enter into such arrangement with each owner as he may deem expedient and may provide for the payment of such remuneration to each owner as he may deem proper. 1948, c. 41, s. 5.

Price of admission and tax.

5.—(1) Every owner shall inform every purchaser of admission of the price or prices of admission to his place of amusement or place of entertainment and of the amount of the tax to be paid by the purchaser by placing in public view at the office of the owner where admission may be purchased a schedule showing such price or prices and the amount of such tax.

Receipt for tax.

(2) For the purposes of subsection 2 of section 3, every owner shall collect the tax on each part of the price of admission and shall give each purchaser a receipt for each such part so that each purchaser may know when he has paid the maximum tax. 1950, c. 27, s. 5.

Sale invoices.

6. Every owner shall, upon the request of the purchaser, deliver to him a writing showing his name, his address, the number of his licence issued under this Act, the price of admission charged to the purchaser, and separately stated, the amount of the tax payable or paid by the purchaser. 1948, c. 41, s. 7.

7. No owner shall advertise or hold out or state to the public or to any purchaser, directly or indirectly, that the tax or any part thereof imposed under this Act will be assumed or absorbed by the owner 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. 1948, c. 41, s. 8.

8.—(1) Where special circumstances exist, whether of a religious, charitable or educational nature or otherwise, the Lieutenant-Governor in Council may, upon application of the owner made to the Treasurer at least 10 days before the tax would otherwise be payable, exempt the purchaser from payment and the owner from collection of the tax imposed under this Act. 1948, c. 41, s. 9 (1).

(2) Where it is shown to the satisfaction of the Treasurer that the tax calculated on the price of admission to a place of amusement or place of entertainment at or in which an entertainment has been held for the purpose of raising funds for religious, charitable or educational purposes, was collected and paid to the Treasurer in accordance with this Act, and where the owner files with the Controller a statement, verified by his affidavit, giving in detail all receipts and expenses in connection with the entertainment and the receipt of the organization to which the proceeds were donated acknowledging receipt of the proceeds is attached thereto, and where the Treasurer is satisfied that the organization is one the operations of which are carried on exclusively for religious, charitable or educational purposes or for any combination of such purposes, the Treasurer may pay to the organization an amount equal to that proportion of the tax so collected and paid which the proceeds acknowledged as received by the organization bear to the gross amount received by the owner as the price of admission to such place of amusement or place of entertainment. 1948, c. 41, s. 9 (2); 1950, c. 27, s. 6.

9.—(1) Every owner shall, as the agent of the Treasurer, on or before the tenth day of each month, without notice or demand, deliver to the Controller such return as is required for the purpose of carrying out this Act. 1948, c. 41, s. 10 (1).

(2) The return shall be verified by the certificate of the owner, and, if the owner is not an individual, of his president or his resident manager or representative in Ontario, certifying that the financial statements for the preceding month, attached to the return, showing the receipts of the place of amusement or place of entertainment, the amount of the tax collectable under this Act and such other information as is required, are in agreement with the books of the owner and exhibit truly and correctly all the business of the owner at his place of

amusement or place of entertainment during the preceding month. 1948, c. 41, s. 10 (2); 1950, c. 27, s. 7.

Penalty for sale of admission unless licensed.

10.—(1) Every owner who fails to comply with subsection 1 of section 2 shall be guilty of an offence and liable to a penalty for each sale, in addition to the costs, of not less than \$10 and not more than \$1,000 and, in default of payment of the costs and penalty, to imprisonment for a term of three months.

Penalty for failure to pay tax.

(2) Every purchaser who fails to pay the tax imposed under this Act shall be guilty of an offence and shall be liable to a penalty of not less than \$10 and not more than \$200.

Penalty for failure to collect tax.

(3) Every owner who refuses or neglects to collect, account for or remit the amount of the tax in accordance with this Act or the regulations, shall be guilty of an offence and shall be liable, in addition to the remittance of the tax, to a penalty for each day during which such offence continues, of not less than \$10 and not more than \$1,000 and in default of payment, to imprisonment for a term of three months.

Penalty for default in filing return.

(4) Every owner who fails to comply with subsection 1 of section 9 shall pay a penalty of five per cent of the tax collectable by him; provided that in no case shall such penalty be more than \$500.

Penalty for failure to complete return.

(5) When any owner fails to complete the information required in the monthly return to be delivered to the Controller under subsection 1 of section 9, such owner shall be liable to a penalty of one per cent of the tax collectable by him; provided that in no case shall such penalty be less than \$1 or more than \$20. 1948, c. 41, s. 11 (1-5).

Penalty for failure of employee to collect tax.

(6) Every employee of an owner who permits or authorizes or is a party or privy to the admission of any purchaser to a place of amusement or place of entertainment without collecting from the purchaser the tax imposed under this Act, shall be guilty of an offence and liable to a penalty of not less than \$20 and not more than \$500. 1948, c. 41, s. 11 (6); 1950, c. 27, s. 8 (1).

Injunction.

(7) In addition to the penalties provided by this Act, the Treasurer may apply to a judge of the Supreme Court for an injunction against any owner who sells admission to his place of amusement or place of entertainment without having a subsisting licence under this Act ordering him to cease selling such admission and to close his place of amusement or place of entertainment until a licence is granted and all costs are paid. 1948, c. 41, s. 11 (7); 1950, c. 27, s. 8 (2).

11. The Treasurer may enlarge the time for making ^{Time for} any return before or after the time for making it. 1948, ^{making} c. 41, s. 12. ^{return.}

12.—(1) Every owner shall remit with the monthly return ^{Remittance} required by subsection 1 of section 9, the amount of the tax ^{of tax.} collectable by him as shown therein.

(2) When an owner remits less than the amount of the tax ^{Deficiency} collectable as shown by the return, he shall pay interest at ^{in amount} the rate of seven per cent per annum upon the deficiency ^{remitted.} calculated from the date of default until the date of remission to the Treasurer. 1948, c. 41, s. 13.

13.—(1) If the Controller, in order to enable him to make ^{Demand for} an accounting of the tax collectable by the owner under this ^{additional} Act or for any other purpose, desires any information or ^{information.} additional information, or a return from any owner who has not made a return or a complete or sufficient return, he may, by registered letter, demand from the owner or from the president, manager, secretary, or any director, agent or representative thereof, such information, additional information or return, and the owner, president, manager, secretary, or any director, agent or representative upon whom the demand is made shall deliver to the Controller the information, additional information or return within 30 days of the mailing of the registered letter.

(2) The Controller may, by registered letter, require the ^{Production} production under oath or otherwise, by any owner or the ^{of letters,} president, manager, secretary, or any director, agent or representative of such owner, or by any person, partnership, ^{accounts,} syndicate, trust or company holding or paying or liable to pay ^{etc.} any portion of the income of such owner, or by any partner, agent or official of any such person, partnership, syndicate, trust or company, of any letters, accounts, invoices, statements or other documents.

(3) If any owner fails or refuses to keep adequate books or ^{Books of} accounts for the purpose of ascertaining the amount of the ^{account to} tax collectable by him under this Act, the Controller may ^{be kept.} require the owner to keep such records and accounts as he may prescribe.

(4) For every default in complying with subsections 1 to 3 ^{Penalty.} the owner or the persons, or both, in default shall jointly and severally be liable to a penalty of \$25 for each day during which the default continues.

Compliance of Treasurer or Controller etc., to be proved by affidavit.

(5) For the purpose of any proceedings taken under this Act, the facts necessary to establish compliance on the part of the Treasurer or of the Controller with this section, as well as the failure of any owner or person to comply with the requirements of this section, shall be sufficiently proven in any court by affidavit of the Treasurer or of any officer of the Treasury Department.

Inquiry as to amount of tax collectable.

(6) Any officer authorized by the Treasurer may make such inquiry as he may deem necessary to ascertain the amount of any tax collectable by any owner under this Act, and for the purposes of such inquiry, such officer shall have all the powers and authority that may be conferred upon a commissioner under *The Public Inquiries Act*.

Rev. Stat., c. 308.

Treasurer or Controller not bound by return.

(7) No return or information supplied by or on behalf of any owner shall be binding upon the Treasurer or the Controller, and notwithstanding any such return or information, or in the absence of any return or information, the Controller may determine the amount of the tax collectable by any owner.

Notice of accounting.

(8) After examination of the return of the owner the Controller shall send a notice of accounting to the owner verifying or altering the amount of tax shown to be collectable by the owner in his return, and any additional tax found to be collectable over the amount shown in the return shall be remitted within one month from the date of mailing of the notice of accounting, and subject to section 12, such additional tax shall bear interest at the rate of four per cent per annum calculated from the last date prescribed for making the return to the date of remission to the Treasurer.

Penalty for non-remittance of additional taxes.

(9) If any owner fails to remit the additional tax and interest within one month after the date of the mailing of the notice of accounting, the owner shall pay, in addition to the interest provided by subsection 8, interest at the rate of three per cent per annum upon the additional tax from the expiry of the period of one month after the date of the mailing of the notice of accounting to the date of remission to the Treasurer. 1948, c. 41, s. 14.

Refunds of over-payments.

14.—(1) The Treasurer may refund before or after the issue of the notice of accounting any amount which the owner has remitted in excess of the taxes collectable or of the interest or penalties payable by him, if application in writing is made therefor by the owner within six months of the date of remission of the tax or the date on which the notice of accounting was issued.

Idem.

(2) Any refund under this section may be paid with interest at the rate of three per cent per annum calculated upon the

amount by which the tax remitted exceeds the amount of tax collectable as determined in the notice of accounting, provided that in no case shall interest be paid where the refund of tax is less than \$50. 1948, c. 41, s. 15.

15. Notwithstanding any prior accounting or where no accounting has been made, the owner shall continue to be liable for any tax which is collectable and which has not been remitted by him under this Act. 1948, c. 41, s. 16.

Continuance of liability.

16. Upon default of remission by any owner of any tax collectable by him or any penalty payable by him under this Act,

Recovery of tax or penalty.

- (a) the Treasurer 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 Treasurer 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; or
- (b) the Treasurer may issue a warrant and direct it to the sheriff of any county or district in which any property of the owner is located or situate, for the amount of the tax, interest and penalty, or any of them owing by the owner, 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 shall have the same force and effect as a writ of execution issued out of the Supreme Court; or
- (c) the Treasurer or any officer authorized by him may enter upon the premises of the owner or any other place in Ontario where the books or records of the owner or any part of them are kept and make such investigation and examination as he may deem necessary, and may seize any of the books and records and may, by notice in writing, require that any person who may be indebted to the owner shall pay the debt to the Treasurer. 1948, c. 41, s. 17.

17.—(1) A notice under clause *c* of section 16 may be served personally or by registered post addressed to such person at the address indicated in the books or records of the owner, and the receipt of payment of the amount of the indebtedness by the Treasurer shall constitute a good and sufficient discharge of the liability of such person to the owner to the extent of the amount indicated in the receipt.

Manner of serving notice.

Liability
of debtor.

(2) Any person discharging any liability to an owner owing taxes collectable by him or penalties payable by him, or both, under this Act after the service of the notice referred to in subsection 1 shall be personally liable to the Treasurer to the extent of the amount of the liability discharged between the person and the owner or to the extent of the amount of taxes collectable by the owner, or interest and penalties payable by him, or both, owing under this Act, whichever is the lesser amount, and the Treasurer shall have the same remedies for the recovery of such amount from such person as he has for the recovery from the owner of a tax collectable or penalty payable by him under this Act. 1948, c. 41, s. 21.

Priority
of tax.

18. Every tax collectable and every penalty payable by any owner under this Act shall be a first lien and charge upon his property in Ontario. 1948, c. 41, s. 22.

Declarations
or
affidavits.

19. Declarations or affidavits in connection with returns under this Act 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. 1948, c. 41, s. 25.

Secrecy.

20.—(1) No person employed in the service of His 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.

Penalty.

(2) Every person who violates any provision of this section shall be guilty of an offence and liable to a penalty of not more than \$200. 1948, c. 41, s. 26.

Remedies
for recovery
of tax and
penalties.

21. The use of any remedy shall not bar or affect any other remedy, and the remedies provided by this Act for the recovery and enforcement of payment or collection, or both, of any tax or penalty, or both, imposed by this Act shall be in addition to any other remedies existing by law, and no action or other proceeding shall in any way prejudice, limit or affect any lien, charge or priority existing under this Act or otherwise. 1948, c. 41, s. 20.

Information
or complaint
within three
years.

22. Any information or complaint with respect to any violation of this Act or the regulations may be laid or made within three years from the time when the matter of the information or complaint arose. 1948, c. 41, s. 18.

23. Except where otherwise specifically provided, the penalties imposed by this Act shall be recoverable under *The Summary Convictions Act* and shall be payable to the Treasurer. 1948, c. 41, s. 19. Penalties payable to Treasurer. Rev. Stat., c. 379.

24. Every person who violates any of the provisions of this Act or the regulations for which no other penalty is provided, shall be guilty of an offence and liable to a penalty of not less than \$50 and not more than \$500. 1948, c. 41, s. 23. General penalty.

25. The Lieutenant-Governor in Council may make regulations, Regulations.

- (a) authorizing or requiring the Deputy Treasurer or any other officer of the Treasury Department to exercise any power or perform any duty conferred or imposed upon the Treasurer by this Act;
 - (b) providing for the collection of the tax imposed under this Act by the issuance of tickets wherever it is deemed advisable;
 - (c) providing for the exemption of the purchaser from the payment and the owner from the collection of the tax that would otherwise be payable and collectable under this Act where the Treasurer, in his absolute discretion, determines that the entertainment given, amusement provided or game played is for religious, charitable or educational purposes;
 - (d) respecting any other matter necessary or advisable to carry out effectively the purpose of this Act. 1948, c. 41, s. 24.
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