1980

c 428 Race Tracks Tax Act

Ontario
CHAPTER 428
Race Tracks Tax Act

1. In this Act,

(a) "Minister" means the Minister of Revenue;

(b) "person" includes an incorporated company, association and club;

(c) "race meeting" means a series of races for horses;

(d) "regulations" means the regulations made under this Act;

(e) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1970, c. 397, s. 1; 1978, c. 62, s. 16 (2).

2.—(1) Every holder of a winning ticket issued under the pari-mutuel system upon a race run at a race meeting shall pay a tax at the rate of 7 per cent upon the amount that would be payable to him if no percentage were deducted or retained by the person holding the race meeting in respect of such race.

(2) The tax shall be collected by the person holding the race meeting as the agent of the Treasurer by deducting from the total amount bet or wagered upon such race, a sum equal to 7 per cent of the amount so bet or wagered, and such sum shall be paid over to the Treasurer at the close of each day's racing.

(3) Every person who collects any tax under this Act shall be deemed to hold it in trust for Her Majesty in right of Ontario and is responsible for the payment over of it in the manner and time provided by this Act and the regulations.

(4) All amounts collected by a person under this Act shall be kept separate and apart from his own moneys. R.S.O. 1970, c. 397, s. 2.

3.—(1) Every person owning, operating or using a race track and holding a race meeting shall at the end of every fourteen days, or such other greater or lesser period as the
Minister may designate, during the term of the race meeting and at or immediately after its close furnish to the Minister a separate return for each track,

(a) of the moneys received and of the moneys paid out at or in connection with the race meeting;

(b) of the total amount wagered on the track or tracks at the race meeting in respect of which such person derived any benefit;

(c) of the percentage or other portion thereof taken by such person; and

(d) of such other information as may be required by the Minister.

(2) Every person owning, operating or using a race track and holding a race meeting shall maintain an office at or near the race track and within Ontario at which at all times shall be kept the books of account and vouchers relating to the race track and any race meetings held by him, and, in the case of a company, association or club, the minute book shall also be kept at such office and the books of account, vouchers and minute book shall at all times be open to the inspection of the Minister or his duly accredited representative.

(3) Such officers or clerks of the Ministry of Revenue as are appointed by the Minister for the purpose of ascertaining the amount wagered in connection with the tax imposed by section 2 have access free of all charge at all times to all parts of any race track including the pari-mutuel plant connected therewith during the progress of a race meeting.

(4) Every person opening or continuing a race meeting on any day in respect of which the tax imposed by this Act has not been paid or neglecting or refusing to deduct and pay over the tax mentioned in section 2, or neglecting to furnish the statement required by subsection (1), or to comply with subsection (2), is liable to a penalty of $1,000 for every day during which the default continues, and where such person is a company, association or club, every director, manager or secretary thereof who wilfully authorizes or permits such default is liable to a like penalty.

(5) Where default has been made by such person in deducting and paying over the tax mentioned in section 2 or in making any return required by this section or under any other provision of this Act, or in complying with subsection (2), or such person is contravening any statute of Canada or of
Ontario, any member of the Ontario Provincial Police Force, acting under the instructions of the Minister, may stop all racing upon the track of such person, or the holding of any further race meeting by such person. R.S.O. 1970, c. 397, s. 3; 1972, c. 1, s. 1.

4. Where under any agreement or arrangement whenever entered into, a person conducting a race meeting upon a race course has leased, assigned or otherwise disposed of, or suffers or permits the enjoyment of the betting privileges or the operation of pari-mutuel machines upon or in connection with such race course to or by any other person, such other person shall deduct and pay over to the Treasurer the tax imposed by this Act and this Act applies to such other person as well as to the person conducting such race meeting, and, in the event of the neglect, refusal or failure of such other person to deduct and pay over the tax and to comply with this Act, the person conducting the race meeting in respect of which such default occurs as well as such other person is liable to the penalties provided by this Act, and any member of the Ontario Provincial Police Force acting under the instructions of the Minister may stop all racing upon the track upon which the race meeting is conducted or the holding of any further race meeting by such person. R.S.O. 1970, c. 397, s. 4.

5.—(1) For the purpose of obtaining any information that he considers necessary for the purposes of this Act, the Minister may,

(a) demand from any person such information as is indicated in a letter delivered or sent by prepaid mail to the person and the person shall furnish to the Minister all such information that he has in his possession or under his control, in writing, within thirty days of the delivery or sending of the letter; or

(b) appoint any officer of the Ministry of Revenue to make such inquiry as is necessary to obtain such information and, for the purpose of the inquiry, the officer has all the power and authority of a commission under Part II of the Public Inquiries Act, which Part applies to the inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 397, s. 5 (1); 1971, c. 49, s. 18; 1972, c. 1, s. 1.

(2) Any act done or proceeding taken under either of the clauses of subsection (1) does not preclude the Minister from proceeding under the other clause. R.S.O. 1970, c. 397, s. 5 (2).
6.—(1) The taxes and penalties imposed under this Act 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.

(2) Except where otherwise provided, the penalties imposed by this Act may be recovered in the manner provided by the Provincial Offences Act and are payable to the Treasurer.

(3) Upon default of payment by a person holding the race meeting of any tax collectable under this Act, the Minister may issue a warrant directed to the sheriff of any county or district in which the property of a person liable to make remittance under this Act is located or situate for the amount of tax, interest and penalty, or any of them, owing by him, together with interest thereupon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

(4) The use of any remedy does 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 are in addition to any other remedies existing by law. R.S.O. 1970, c. 397, s. 6.

7. Any amount payable or to be remitted to the Treasurer 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 Treasurer to the day of payment. R.S.O. 1970, c. 397, s. 7.

8. The Minister may require a person holding a race meeting to furnish a surety bond on such terms and conditions and in such amount as the Minister considers appropriate. R.S.O. 1970, c. 397, s. 8.

9.—(1) The Minister is not bound by a return or information delivered by or on behalf of any person under this Act and may, notwithstanding a return or information as delivered, or if no return or information has been delivered, assess the tax payable under this Act.

(2) The Minister may at any time assess tax, interest or penalties and may at any time reassess or make additional assessments. R.S.O. 1970, c. 397, s. 9.
10. The Lieutenant Governor in Council may make regulations,

(a) authorizing or requiring the Deputy Minister of Revenue 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;

(b) prescribing the forms of returns required to be made by this Act and the information to be furnished therein;

(c) providing for the manner of collecting the tax imposed by this Act;

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

(e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 397, s. 10; 1972, c. 1, s. 1; 1972, c. 20, s. 1.

11. 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 purpose by the Lieutenant Governor in Council, but any person so specifically authorized shall not charge any fee therefor. R.S.O. 1970, c. 397, s. 11.

12.—(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.

(2) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than $200. R.S.O. 1970, c. 397, s. 12.