1976

c 82 The Retail Sales Tax Amendment Act, 1976 (No. 2)

Ontario
CHAPTER 82

An Act to amend
The Retail Sales Tax Act

Assented to December 16th, 1976

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

1.--(1) Paragraph 8a of section 1 of The Retail Sales Tax Act, being chapter 415 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1976, chapter 23, section 1, is repealed.

(2) Paragraph 9 of the said section 1, as re-enacted by the Statutes of Ontario, 1976, chapter 23, section 1, is re-enacted and the following substituted therefor:

9. "purchaser" means a consumer or person who acquires tangible personal property anywhere, or who acquires or receives a taxable service at a sale in Ontario, for his own consumption or use, or for the consumption or use in Ontario of other persons at his expense, or on behalf of or as agent for a principal who desires to acquire such property or service for consumption or use in Ontario by such principal or other persons at his expense, and includes a person who, at his expense purchases admission to a place of amusement for himself or for another person.

(3) Clause fa of paragraph 13 of the said section 1, as enacted by the Statutes of Ontario, 1976, chapter 23, section 1, is repealed.

(4) Paragraph 15 of the said section 1, as re-enacted by the Statutes of Ontario, 1976, chapter 23, section 1, is re-enacted and the following substituted therefor:

15. "tangible personal property" means personal property that can be seen, weighed, measured, felt or touched, or that is in any way perceptible to the
senses, and includes natural gas, manufactured
gas, and any chattel that is a fixture and for the use, possession or enjoyment of which a fee, charge or rent is paid that is not included in any fee, charge or rent paid for possession or occupation of the real property to which the chattel is affixed.

2. Section 2 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 23, section 2, 1974, chapter 7, section 1, 1975, chapter 9, section 2 and 1976, chapter 23, section 2, is further amended by adding thereto the following subsection:

(5a) Notwithstanding subsection 5 and section 9, where a purchaser,

(a) rents or leases from any person any taxable service at a sale in Ontario; or

(b) acquires tangible personal property at a sale that is the lease or rental to him of such tangible personal property without provision for the transfer to him of title thereto, or with the provision of such transfer only upon the exercise of an option or similar right to acquire such tangible personal property, the tax imposed by this Act shall be computed, paid and collected at the time of, and on the fair value of the consideration given in payment of, each rental payment made by or on behalf of the purchaser in respect of the lease or rental of such taxable service or tangible personal property, and tax shall, in addition, be computed, paid and collected at the time of, and on the fair value of the consideration given in payment for, each of the obtaining of any option or similar right to purchase the tangible personal property leased or rented or the exercising of any such option or similar right.

3.—(1) Paragraph 38 of subsection 1 of section 5 of the said Act is repealed and the following substituted therefor:

38. materials (except grease, lubricating oil or fuel for use in internal combustion engines) that are purchased to be used up or expended by a manufacturer or by a producer directly in,

(a) the manufacture or production of tangible personal property, the development by such manufacturer or producer of goods for his manufacture or production, or the develop-
ment by such manufacturer or producer of manufacturing or production processes for his own use;

(b) the detection, measurement, prevention, treatment, reduction or removal of pollutants in air, water or soil that are attributable to manufacturing or producing operations; or

(c) a manufacturing or production process prescribed by the Minister for this clause and when the materials so used up or expended are prescribed by the Minister for the purpose of this clause.

38a. machinery or equipment purchased for the use of a manufacturer, or for the use of a producer, if such machinery or equipment is,

(a) to be used directly in the manufacture or production of tangible personal property, in the development by such manufacturer or producer of goods for his manufacture or production, or in the development by such manufacturer or producer of manufacturing or production processes for his own use;

(b) to be used by such manufacturer or producer directly in the detection, measurement, prevention, treatment, reduction or removal of pollutants in air, water or soil that are attributable to manufacturing or producing operations;

(c) to be used by such manufacturer or producer to carry away refuse or waste from machinery or equipment used directly in the manufacture or production of tangible personal property, or to be used to exhaust or expel dust or noxious fumes produced in the manufacturing or producing operations of such manufacturer or producer;

(d) a gasoline-powered or diesel-powered self-propelled truck mounted on rubber-tired wheels that is not operated on the highway and that is used exclusively at mines or quarries;
(c) a tractor (other than a highway truck tractor) powered by an internal combustion engine, a logging wagon, logging sled, logging car or logging crane, a captive balloon with a volume of 150,000 cubic feet or more, or wire rope, blocks and tackle, or machinery, and is used exclusively in logging operations including the removal of the log from the stump to the skidway, log dump, or to a common or other carrier;

(f) pipes, tubing, casings, fittings, couplings, thread protectors and nipples therefor, and drilling pipe that are commonly known as “oil country goods” and are used in connection with natural gas or oil wells; or

(g) machinery, equipment and apparatus, including wire rope, drilling bits, drilling mud and seismic shot-hole casing, to be used in the exploration for, or in the discovery or development of, petroleum, natural gas or minerals,

but the exemption conferred by this paragraph does not apply to any type or class of machinery or equipment prescribed by the Minister to be excluded from this paragraph, or to any machinery or equipment used in any manner, process, industry, enterprise or by any person prescribed by the Minister as not entitled to the exemption conferred by this paragraph.

(2) Clause c of paragraph 49 of subsection 1 of the said section 5, as enacted by the Statutes of Ontario, 1975, chapter 9, section 4, is repealed.

(3) Paragraph 67 of subsection 1 of the said section 5, as enacted by the Statutes of Ontario, 1976, chapter 23, section 3, is repealed.

4. Subsection 3 of section 42 of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 9, section 11 and amended by 1976, chapter 23, section 12, is further amended by adding thereto the following clause:

(g) providing for the rebate of tax paid on parts that are used to increase the output or capacity of machinery and equipment, the purchase of which would be exempt by clause a of paragraph 38a
of subsection 1 of section 5 if the capacity or output of such machinery or equipment is increased by not less than 25 per cent of the original output or capacity specified for such machinery or equipment, and prescribing the conditions on which such rebate may be made and, where the Minister considers it appropriate, the method of calculating in any case or class of cases the increase in output or capacity necessary to meet the requirements of this clause.

5.—(1) Subsection 1 of section 13 of The Retail Sales Tax Amendment Act, 1976, being chapter 23, is amended by striking out "subsections 3, 4, 5 and 6 of section 1," in the first line and by striking out "and subsection 8 of section 3" in the second line.

(2) Subsection 3 of section 13 of the said Act is repealed.

6. Not later than the 1st day of January, 1978, the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs shall cause a review to be made respecting the impact on the public revenues, on job creation, unemployment, investment and growth of the productive sector of Ontario resulting from the operation of the exemptions created by paragraphs 38 and 38a of subsection 1 of section 5 of The Retail Sales Tax Act, as enacted by section 3 of this Act, and shall lay a report setting out the results of the review before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

7.—(1) This Act, except sections 1 and 2, subsections 1 and 3 of section 3, section 4 and section 5, comes into force on the day it receives Royal Assent.

(2) Section 2 shall be deemed to have come into force on the 8th day of April, 1975.

(3) Section 1, subsection 3 of section 3, and section 5, shall be deemed to have come into force on the 14th day of April, 1976.

(4) Subsection 1 of section 3 and section 4 come into force on the 1st day of January, 1977.

8. This Act may be cited as The Retail Sales Tax Amendment Act, 1976 (No. 2).