1975

The Retail Sales Tax Amendment Act, 1975

Ontario
CHAPTER 9

An Act to amend The Retail Sales 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) Paragraph 13 of section 1 of The Retail Sales Tax Act, being chapter 4 of the Revised Statutes of Ontario, 1970, is amended by adding at the end thereof "but 'sale' does not include the transfer of title to or possession of tangible personal property to the shareholders of a corporation as the result of the winding-up or dissolution of the corporation".

(2) Paragraph 15 of the said section 1 is repealed and the following substituted therefor: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.

(3) The said section 1 is amended by adding thereto the following paragraph:

18a. "Treasurer" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs.

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

(3a) Notwithstanding subsections 1 and 3, during the period commencing on the 8th day of April, 1975 and ending
with the 31st day of December, 1975, the tax imposed by subsections 1 and 3 shall be at the rate of 5 per cent of the fair value of the tangible personal property or taxable service respectively made liable to tax under the said subsections during such period.

(2) Subsection 7 of the said section 2, as amended by the Statutes of Ontario, 1974, chapter 7, section 1, is further amended by adding at the commencement thereof "Subject to subsection 8".

(3) Subsection 8 of the said section 2, as re-enacted by the Statutes of Ontario, 1974, chapter 7, section 1, is repealed and the following substituted therefor:

(8) Where a person has paid an amount under this Act as tax that is not payable as tax under this Act, such amount shall be refunded if, within two years following the date of payment of such amount, an application for the refund is made to the Minister and it is established within such two years to the satisfaction of the Minister that the amount that may be refunded was not payable as tax under this Act, and where the amount shown not to have been payable as tax under this Act was paid in the course of performing a contract under which a party to the contract, other than the person who paid such amount, reimbursed the person for such amount so paid, the amount that may be refunded under this subsection may be paid to such party.

(8a) Where, as the result of an assessment or reassessment or the final decision of a court in proceedings commenced under section 20, the person assessed or reassessed or the appellant, as the case may be, has overpaid the tax payable under this Act, the amount of such overpayment shall be refunded to him notwithstanding the limitations contained in subsection 8.

(8b) Where, within two years following the payment of an amount under this Act as tax that is not payable as tax, the person who paid such amount informs the Minister that a claim for a refund of such amount will be made, and further provides to the Minister evidence of the nature of the claim and an explanation satisfactory to the Minister of why the full particulars of the claim cannot be furnished in the proper form within such two-year period, the Minister may extend by not more than six months the two-year period mentioned in subsection 8.
(1) No vendor shall sell any taxable tangible personal property or sell any taxable service or operate any place of amusement the price of admission to which is taxable unless he has applied for, and the Minister has issued to him, a permit to transact business in Ontario and the permit is in force at the time of such sale.

(2) Subsections 5 and 6 of the said section 3 are repealed and the following substituted therefor:

(5) A permit issued under subsection 1 is valid only for the vendor in whose name it is issued, and only for so long as the vendor therein named transacts business in Ontario or until the permit is suspended or cancelled, as the case may be.

(6) Every vendor shall keep at each location in Ontario where he transacts business a copy of the permit issued to him under subsection 1 and shall, upon the request of any purchaser, produce for such purchaser's inspection a copy of such permit.

4.—(1) Paragraph 19 of subsection 1 of section 5 of the said Act is repealed and the following substituted therefor:

19. materials and equipment required for irrigation purposes, repairs to such equipment, and drainage tiles, when such materials, equipment or tiles are purchased by a person who, with respect to such purchase, provides to the vendor a written statement that such materials, equipment or tiles will be used exclusively in the business of farming by a person engaged in farming, and the statement shall be signed by the person engaged in farming and by whom such materials, equipment or tiles will be used.

(2) Paragraph 37 of subsection 1 of the said section 5 is repealed and the following substituted therefor:

37. dies, jigs, product-holding fixtures, moulds and patterns for any of them, tools attached to production machinery, and explosives and refractory materials, all as defined by the Minister and expended or used up in the process of manufacturing tangible personal property for sale or use.

(3) Subsection 1 of the said section 5, as amended by the Statutes of Ontario, 1972, chapter 21, section 1, 1973, chapter 23, section 4 and 1974, chapter 7, section 2, is further amended by adding thereto the following paragraphs:
49. machinery or equipment that, pursuant to a contract for the acquisition or rental of such machinery or equipment or pursuant to a direction for the fabrication or manufacture thereof made or given after the 7th day of April, 1975 and before the 1st day of January, 1977, is delivered after the 7th day of April, 1975 and before the 1st day of January, 1978 to the person by whom such machinery or equipment is to be used, if such machinery or equipment is, in the opinion of the Minister, to be used principally in,

(a) the process of manufacturing or producing tangible personal property for sale or use by the manufacturer or producer thereof; or

(b) the construction of capital works, buildings, structures, roads or similar projects when the value of any separate piece of machinery or equipment so used and for which exemption is claimed under this paragraph is not less than $500,

but no exemption may be claimed under this paragraph for any machinery or equipment,

(c) that has a fair value in excess of $15,000 and that is delivered during the year 1977 to the person by whom it is to be used for a purpose described in clause a or b, unless a copy of the contract for the acquisition or rental of such machinery or equipment or a copy of the direction for the fabrication or manufacture thereof has been, prior to the 1st day of January, 1977, furnished to the Minister or to an officer of the Ministry of Revenue designated by the Minister to receive copies of such contracts or directions;

(d) with respect to the sale, use or consumption of which there has not been properly completed by the vendor and the purchaser of such machinery or equipment (or by the purchaser thereof where the machinery or equipment is fabricated or manufactured by such purchaser for his own use and pursuant to a direction given by him) a Machinery and Equipment Purchase Exemption Certificate in the form and manner prescribed by the Minister;

(e) that is, in the opinion of the Minister, principally used in the production or provision of a taxable service;
(f) the contract for the rental or acquisition of which or the direction for the fabrication or manufacture of which is, in the opinion of the Minister, made for the purpose of obtaining the exemption conferred by this paragraph in substitution for or as the result of the cancellation of a substantially similar contract entered into or direction made or given before the 8th day of April, 1975, or

(g) prescribed by the Minister to be excluded from the exemption conferred by this paragraph.

49a. returnable containers to be used to hold milk that is sold at a retail sale in Ontario.

(4) Paragraph 53 of subsection 1 of the said section 5 is repealed and the following substituted therefor:

53. equipment, as defined by the Minister, that is to be used by a religious institution exclusively in that part of its premises where religious worship or sabbath school is regularly conducted, and repairs to such equipment, but not including any equipment acquired for resale by a religious institution.

(5) Subsection 1 of the said section 5 is further amended by adding thereto the following paragraph:

66. vessels, as defined by the Minister that do not exceed 500 tons gross and that are operated for commercial purposes, repairs to such vessels, and machinery or equipment purchased to refit such vessels.

5. The said Act is amended by adding thereto the following section:

11.—(1) For the period commencing on the 1st day of July, 1975 and ending with the 31st day of March, 1976, and thereafter for each twelve-month period commencing on the 1st day of April, there may be paid to each vendor holding a valid and subsisting permit issued under section 3 the lesser of,

(a) $500; and

(b) the aggregate of,

(i) 3 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 $67 or more,
Compensation to other agent.

Idem

Assessment from time to time

Compensation to other agents

(ii) $2 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 $2 and is less than $67, 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 $2,

as compensation for his services in collecting and remitting the tax imposed by this Act, and the vendor may deduct such compensation from the amount otherwise to be remitted to the Treasurer in accordance with section 10.

(2) The Minister may enter into such arrangements as he considers expedient and proper with any person who collects tax by virtue of an authorization made under subsection 1 of section 8a for the payment of compensation to such person for his services in collecting and remitting the tax imposed by this Act, and such person may deduct the compensation payable to him from the amount otherwise to be remitted to the Treasurer in accordance with this Act and the regulations.

(3) No person accepting compensation under subsection 1 or 2 shall thus be made ineligible as a member of the Assembly.

6. Subsection 3 of section 15 of the said Act is repealed and the following substituted therefor:

(3) The Minister may assess or reassess any tax collectable by a vendor or any tax payable by a purchaser under this Act within three years from the day such tax became collectable or payable, as the case may be, except that, where the Minister establishes that any vendor or purchaser has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud, in making a return or in supplying any information under this Act or in omitting to disclose any information, then the Minister may assess or reassess tax imposed by this Act at any time he considers reasonable.

7. Subsection 2 of section 18 of the said Act is repealed.

8. The said Act is further amended by adding thereto the following section:

18a. Where, prior to the 8th day of April, 1975, a first lien and charge arose or came into existence on any real
property by virtue of subsection 2 of section 18 as it existed before such day, such real property is, upon the 1st day of July, 1975, absolutely discharged from such first lien and charge then remaining in force unless, prior to the 1st day of July, 1975, there is registered in the proper land registry office a notice claiming such first lien and charge.

9. Subsection 1 of section 22 of the said Act is amended by striking out "20" in the second line and inserting in lieu thereof "21".

10.—(1) Subsection 3 of section 34 of the said Act is amended by striking out "3" in the fifth line and in the eighth line and inserting in lieu thereof in each instance "4".

(2) Subsection 4 of the said section 34 is amended by striking out "3" where it occurs the second time in the third line and in the eighth line and inserting in lieu thereof in each instance "4".

(3) The said section 34 is amended by adding thereto the following subsection:

(6) In this section, "non-resident contractor" does not include a company incorporated pursuant to the laws of Ontario.

11.—(1) Clause a of subsection 2 of section 42 of the said Act is repealed.

(2) The said section 42, as amended by the Statutes of Ontario, 1973, chapter 23, section 8, is further amended by adding thereto the following subsections:

(3) The Minister may make regulations,

(a) prescribing, defining or determining anything that he is permitted or required by this Act to prescribe, define or determine;

(b) prescribing for the purposes of this Act or the regulations the records and information to be kept and maintained by a vendor, registered consumer or purchaser;

(c) prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.
(4) A regulation is, if it so provides, effective with reference to a period before it was filed.

12. This Act shall be deemed to have come into force on the 8th day of April, 1975.

13. This Act may be cited as The Retail Sales Tax Amendment Act, 1975.