1974

c 17 The Land Speculation Tax Act, 1974

Ontario
CHAPTER 17

An Act to impose a Tax on Land in respect of certain speculative Transactions affecting the Control or Ownership of Land

Assented to June 3rd, 1974

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

1.-(1) In this Act,

(a) "adjusted value" means, in the case of any particular disposition of designated land to which the expression is being applied, the aggregate of,

(i) where the designated land was acquired by the transferor after the 9th day of April, 1974,

(A) otherwise than as described in sub-subclause B, C or D, the cost to the transferor of its acquisition,

(B) under the will or on the intestacy of a person dying after the 9th day of April, 1974, the fair market value of the designated land at the death of such person,

(C) the fair market value of the designated land at the time it was so acquired if it was so acquired,

1. by the transferor from a person or persons with whom the transferor was not dealing at arm’s length at the time the designated land was so acquired by him,

2. by the transferor that is a corporation that so acquired the designated land in consideration of the allotment and issue of its shares,
3. by the transferor that is an organization, syndicate, association of persons, partnership, joint venture or corporation without share capital that so acquired the designated land in consideration of the admission to membership therein of any person, or

4. by the transferor by way of gift,

or

(D) as the result of a disposition described in clause h of section 4, the adjusted value applicable to the designated land on the first disposition of it after the 9th day of April, 1974, that was a disposition described in clause h of section 4 and made by a transferor of whose family the subsequent transferor is a member,

(ii) where the designated land was acquired by the transferor on or before the 9th day of April, 1974, the fair market value of the designated land ascertained as at the 9th day of April, 1974,

(iii) the cost of improvements made by the transferor to the designated land after the 9th day of April, 1974,

(iv) for each twelve-month period that does not commence earlier than the 9th day of April, 1974 during which the transferor owns the designated land prior to his disposition of it, the lesser of either,

(A) 10 per cent of the amount determined under either subclause i or ii, whichever is applicable, or

(B) the aggregate of,

1. the net maintenance costs incurred by the transferor after the 9th day of April, 1974 with respect to the designated land, and
2. the costs incurred by the transferor in connection with disposing of the designated land if it was acquired by him after the 9th day of April, 1974, or where it was acquired by him on or before that date, the proportion of the costs incurred by the transferor in connection with disposing of the designated land that is in the same ratio to the whole of such costs as the fair market value of the designated land at the 9th day of April, 1974 is of the proceeds of disposition of the designated land by the transferor,

and

(v) in the case of a disposition of designated land used in farming and to which clause h of section 4 does not apply, an amount equal to compound interest at the rate of 10 per cent per annum calculated with annual rests upon the amount determined under subclause i or ii, whichever is applicable to the transferor, for the number of years preceding the disposition and not including any period of time prior to the 9th day of April, 1974 throughout which farming was carried on on the designated land by the transferor making the disposition to which clause h of section 4 does not apply, or by any previous transferor of whose family the transferor making the disposition to which clause h of section 4 does not apply was a member, or by members of the family of such previous transferor, or by a farming corporation to which a disposition by such previous transferor would be a disposition described in clause h of section 4;

(b) "designated land" means all land situate in Ontario and every right, estate, interest, tenement or hereditament existing at law or in equity in, over, to, or affecting land or capable of being registered in any land registry office in Ontario, fixtures, and buildings or structures attached to land, whether or not owned by persons other than the owner of the freehold of the land to which they are attached,
but "designated land" does not include any land in Ontario that is, within the meaning of paragraph c of subsection 15 of section 66 of the *Income Tax Act* (Canada), "Canadian resource property", or an interest held in land solely as security for some indebtedness secured by the land;

(c) "dispose", "disposed of", and expressions of like import when used with reference to designated land, mean a disposition which has or is deemed to have occurred with respect to designated land;

(d) "disposition" includes,

(i) a sale or transfer, however effected, of any part of the beneficial interest in designated land,

(ii) the sale, transfer, or assignment of an option providing for the acquisition of designated land, or the transfer of designated land made to comply with the terms of any such option that has been exercised,

(iii) the entering into a lease or similar arrangement of any kind with respect to designated land where the term of the lease or arrangement, including any renewals or extensions thereof, may exceed ten years, and the sale, assignment or transfer of the rights under any such lease or arrangement exercisable by the lessee or in the case of an arrangement similar to a lease, by the person in a position similar to that of the lessee,

(iv) any change in the entitlement to, or any accretion to, the beneficial interest in designated land as a result of the death of any person,

(v) any change in the composition of, the membership of, or the persons beneficially interested in any organization, syndicate, association of persons, partnership, joint venture or corporation without share capital, 50 per cent or more of the assets of which consist of designated land, if the effect of such change is that control over the use of the designated land or the proceeds of its disposition or of a subsequent disposition is exercisable in fact by a different person or group of persons,
(vi) the sale or transfer in any manner of the beneficial interest in, or the allotment and issue of, shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are shares in the capital stock of a corporation 50 per cent or more of the assets of which consist of designated land, or

(vii) the amalgamation, merger, consolidation or any other like arrangement of any two or more corporations, 50 per cent or more of the assets of any one of which consist of designated land, that has the effect of making control over the use of the designated land or the proceeds of its disposition or of a subsequent disposition exercisable in fact, and whether directly or indirectly, by a different person or group of persons,

but for greater certainty "disposition" does not include any transfer of property for the purpose only of securing a debt or a loan, or any transfer by a creditor for the purpose only of returning property that had been used as security for a debt or a loan, or any transfer of property by virtue of which there is a change in the legal ownership of the property without any change in the beneficial ownership thereof;

(e) "farming" includes tillage of the soil, the breeding, raising or grazing of live stock of all kinds, the raising of poultry and the production of poultry products, fur farming, dairy farming, fruit growing, the growing of food for human consumption or for the feeding of live stock, and the keeping of bees;

(f) "farming corporation" means a corporation,

(i) every share of which that confers on the holder thereof the right to vote is, at the date of any disposition with respect to which the expression is being applied, owned either by the transferor making the disposition or by a member of his family, and

(ii) 95 per cent of the assets of which are "farming assets" within the meaning of section 17a of The Succession Duty Act;
(g) "member of the family" means grandparents, parents, uncles, aunts, the spouse, brothers, sisters, children, grandchildren, nephews, nieces, sons-in-law, daughters-in-law, mother-in-law or father-in-law of a person with respect to whom the expression is being applied;

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

(i) "municipality" includes a district, regional or metropolitan municipality, a local board, as defined in The Municipal Affairs Act, of any municipality, and an elementary or secondary school board or board of education having jurisdiction in territory without municipal organization;

(j) "net maintenance costs" means all costs, including interest payments and property taxes, incurred in connection with the maintenance of the designated land to which the expression is being applied, other than costs incurred in connection with the disposition of designated land, and after deducting any income howsoever earned by the transferor from the designated land, including income from his own use of the designated land or from the granting of any right or interest therein, but no deduction shall be made with respect to income earned from farming the designated land by a farmer who is carrying on farming therewith and whose chief source of income is from farming and who owns the designated land;

(k) "prescribed" means prescribed by regulation;

(l) "proceeds of disposition" means,

(i) the gross sale price or any other consideration given for the disposition of designated land or received by the transferor of designated land, the assumption, undertaking, extinguishment or release of any liability of the transferor or affecting designated land disposed of, and the value of any benefit of whatsoever kind conferred on the transferor or on some person at the direction of the transferor as part of the arrangement relating to the disposition of designated land,

(ii) where designated land is transferred to comply with the terms of an option that provides for the acquisition of the designated land and that has been exercised, the value
of the consideration given for the granting of the option, plus the value of the cost provided for in the option of acquiring the designated land upon the exercise of the option, or

(iii) an amount equal to the fair market value of the designated land disposed of where the disposition is,

(A) by a transferor to a person or persons with whom the transferor is not dealing at arm's length at the time of the disposition,

(B) to a corporation in consideration of the allotment and issue of its shares,

(C) to an organization, syndicate, association of persons, partnership, joint venture or corporation without share capital in consideration of the admission to membership therein of any person, or

(D) by way of gift,

but no proceeds of disposition arise on a disposition under the last will and testament of any person or on the intestacy of any person;

(m) "regulation" means a regulation made under this Act;

(n) "tax" unless expressly otherwise restricted, means the taxes imposed by this Act and the interest payable thereon;

(o) "taxable value" when used in relation to designated land means the amount by which the proceeds of disposition of designated land exceed the adjusted value of that designated land at the time of its disposition, and the taxable value of designated land shall be computed separately for each disposition of designated land;

(p) "transferor" means,

(i) except as provided in subclause ii, iii or iv, the person or persons who make or
effect any disposition with respect to designated land with respect to which the expression "transferor" is being applied,

(ii) in the case of the disposition of any beneficial interest in designated land held in trust, the person or persons who is or are, immediately prior to the making of such disposition, entitled under the trust to have the designated land or the proceeds of its sale held for his or their benefit, or if no such person can be identified, every person who is a beneficiary under a trust extending to designated land the beneficial interest in which is disposed of,

(iii) in the case of a disposition described in subclause iv of clause d, the person or persons who is or are, immediately after the disposition, beneficially interested in the designated land with respect to which such disposition has occurred, or

(iv) in the case of a disposition described in subclause v, vi or vii of clause d, the person or persons who is or are, immediately prior to the occurrence of such disposition, beneficially interested in the designated land with respect to which such disposition has occurred,

and every disposition of or with respect to designated land shall be deemed to be made by the person or persons by this clause defined to be a "transferor" with respect to the disposition;

(q) "Treasurer" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs.

(2) Persons who, for the purposes of the Income Tax Act (Canada), would not be considered as dealing at arm's length shall not be considered to deal at arm's length for the purposes of this Act.

(3) For the purpose of this Act, "disposition" includes any arrangement or ordering in the nature of a disposition, whether by one transaction or a number of transactions effected for the purpose, that in any manner effectively changes the identity of the persons who are entitled in fact or in law to control or derive a profit from designated land or its disposition.
(4) For greater certainty, it is declared that where a disposition described in subclause v, vi or vii of clause d of subsection 1 occurs, it is deemed to be a disposition of or with respect to any designated land referred to in that one of the said subclauses that describes the disposition that has occurred.

(5) For the purpose of this Act, "control" means control by another corporation, individual or trust that is in fact exercising effective control either directly or indirectly and either through the holding of shares of the corporation or of any other corporation or through the holding of a significant portion of any class of shares of the corporation or of the outstanding debt of the corporation or of any shareholder or member of the corporation, or by any other means whether of a like or different nature.

(6) Where designated land is disposed of by a corporation, 50 per cent or more of the assets of which consist of designated land, to its shareholders as a part of the winding up or dissolution of the corporation, the adjusted value of the designated land on the first subsequent disposition of it by such shareholders shall be computed as though the corporation, whether or not then in existence, and such shareholders were the same person.

(7) Where, on the disposition of any designated land, the adjusted value applicable to the designated land disposed of is determinable or ascertainable by reference to a larger amount of designated land of which that being disposed of is only a part, the adjusted value applicable to the designated land being disposed of shall be apportioned in such reasonable manner as will reflect the proportional value that the designated land disposed of is to the value of the larger amount of designated land.

(8) For the purpose of subclause iv of clause a of subsection 1, where the number of months (excluding any period of time prior to the 9th day of April, 1974) during which the transferor owned the designated land prior to his disposition of it exceeds the largest number of such months that is exactly divisible by twelve,

(a) sub-subclause A of the said subclause iv applies to such excess number of months as though the number ten appearing in sub-subclause A were that number that is in the same ratio to ten as the number of such excess months is to twelve; and

(b) paragraph 1 of sub-subclause B of the said subclause iv applies to include net maintenance costs incurred
(9) For the purposes of clause a, l or o of subsection 1, or of subsection 8, where after the 9th day of April, 1974, a disposition described in subclause v, vi or vii of clause d of subsection 1 occurs of or with respect to designated land, the person or persons who is or are, immediately prior to the occurrence of such disposition, beneficially interested in the designated land with respect to which such disposition has occurred, shall be deemed to have disposed of it for proceeds of disposition equal to the amount of the fair market value of the designated land at the time of such disposition, and the person or persons who is or are, immediately following the occurrence of such disposition, beneficially interested in the designated land with respect to which such disposition has occurred, shall be deemed to have acquired the designated land for an amount equal to the amount of its fair market value at the time of such disposition, and for the purpose of determining the adjusted value of the designated land on the occurrence of the next subsequent disposition of it, subsection 8 and subclauses iii, iv and, where applicable, v of clause a of subsection 1 apply only to the period ending at the time of the next subsequent disposition of it and commencing at the time when the transferor making such next subsequent disposition was last deemed to have acquired the designated land.

2.—(1) Subject to section 4, where, after the 9th day of April, 1974, any disposition of designated land occurs, there shall be imposed and levied, for the uses of Her Majesty in right of Ontario, upon the designated land with respect to which such disposition occurs a tax computed at the rate of 50 per cent of the taxable value of designated land with respect to which such disposition occurs.

(2) Where there is a disposition within the meaning of subclause vi or vii of clause d of subsection 1 of section 1 of any designated land and the result of the disposition is that control of the corporation beneficially interested in the designated land is exercisable by a person or a group of persons different from those by whom control of the corporation was exercisable before the disposition, there shall be imposed and levied, for the uses of Her Majesty in right of Ontario, upon the designated land a tax, in addition to the tax imposed by subsection 1, calculated on the proceeds of disposition and computed at the rate of 20 per cent of the proceeds of disposition where the corporation beneficially interested in the designated land is, immediately after the disposition.
has occurred, a non-resident corporation as defined in The Land Transfer Tax Act, 1974.

(3) The tax is payable by the transferor of any designated land disposed of by him and shall be paid at the time of the disposition of the designated land, and if not then paid, the tax bears interest at the rate of 9 per cent per annum until a different rate is prescribed.

(4) The tax is payable to the Treasurer and shall be remitted to the Minister by the person responsible for its payment.

3.—(1) An administrator, executor, trustee or person acting in a fiduciary capacity for the transferor of designated land that is disposed of is not, as such, personally liable for the tax, but no person in Ontario shall pay, deliver, assign or transfer to or for the benefit of the transferor of any person at the direction of the transferor any money or property coming into his hands as administrator, executor, trustee or person acting in a fiduciary capacity and by reason of the disposition of designated land without deducting therefrom or collecting an amount sufficient to pay the tax on the designated land disposed of.

(2) Every such administrator, executor, trustee or person acting in a fiduciary capacity for the transferor who, knowing that tax is payable, makes or permits any payment, delivery, assignment or transfer referred to in subsection 1 without deducting or collecting an amount sufficient to secure the tax is guilty of an offence and on summary conviction is liable to pay to the Treasurer as a penalty an amount equal to 150 per cent of the amount of such tax.

(3) An administrator, executor, trustee or person acting in a fiduciary capacity for the transferor who has deducted or collected any money on account of the tax shall remit it to the Minister and is deemed to be a person who has received money for the Crown or for which he is accountable to the Crown within the meaning of The Financial Administration Act.

4. No designated land is liable to the tax imposed by subsection 1 of section 2,

(a) when the designated land is disposed of by, or by way of gift to, an organization that is, at the time of the disposition, a “registered Canadian charitable organization” within the meaning of paragraph c of subsection 8 of section 110 of the Income Tax Act (Canada) and is not a trust.
exempt from tax under Part I of that Act by paragraph \( f \) or \( h \) of subsection 1 of section 149 of that Act;

\( (b) \) when the designated land is disposed of by a municipality;

\( (c) \) when the designated land is disposed of by a corporation, 50 per cent or more of the assets of which consist of designated land, to its shareholders as part of the winding up or dissolution of the corporation;

\( (d) \) when the designated land disposed of is, at the time of its disposition, predominantly used as a tourist resort of a class, kind or designation prescribed by the Minister by regulation, or for commercial or industrial purposes, other than the rental of apartment suites or residential accommodation for use as the principal residence of the lessee, and if the designated land so disposed of contains buildings, structures or other capital improvements, excluding any costs or value attributable to subdividing and servicing the designated land, that have a value, at the time of the disposition, equal to 40 per cent or more of the proceeds of disposition of the designated land;

\( (e) \) when the designated land disposed of is the principal residence of the transferor ordinarily inhabited by him or by him and his spouse, children or other dependants, together with land subjacent to the principal residence and land immediately contiguous to such subjacent land to the extent that such subjacent land and the immediately contiguous land do not exceed ten acres, but where only part of the designated land disposed of is ordinarily inhabited by the transferor or by him and his spouse, children or other dependants as his principal residence, the exemption conferred by this clause applies only to the proportion of the taxable value on such disposition that is in the same ratio to the whole of such taxable value as that part of any building that is ordinarily inhabited by the transferor or by him and his spouse, children or other dependants as his principal residence is of the whole of the building or buildings included in the designated land so disposed of;

\( (f) \) when the designated land disposed of is not designated land described in clause \( e \) or is not immediately
contiguous thereto, and is used by the transferor or by members of his family for his or their personal recreation and enjoyment and is his principal recreational property, but this clause does not apply to any part of such designated land so disposed of in excess of twenty acres or where the disposition is to a non-resident person as defined in The Land Transfer Tax Act, 1974;

(g) when the designated land disposed of includes a building or structure,

(i) that the transferor has constructed or caused to be constructed, or

(ii) that the transferor has renovated or caused to be renovated at a cost of not less than 20 per cent of,

(A) where the designated land was acquired by him after the 9th day of April, 1974, the cost to him of his acquisition of the designated land or the fair market value of the designated land at the time of its acquisition by the transferor if such fair market value is greater than the cost of acquisition, or

(B) where the designated land was acquired by the transferor on or before the 9th day of April, 1974, its fair market value ascertained as at the 9th day of April, 1974, and that has a value at the time of the disposition of the designated land of not less than 40 per cent of the total proceeds of disposition of the designated land;

(h) when the designated land disposed of is, at the time of its disposition, used by the transferor, by members of the family of the transferor, by a farming corporation, or by the transferor and members of his family in farming, and the disposition of such designated land is to a member or members of the family of the transferor or to a farming corporation for the purpose of enabling the person to whom the disposition is made to carry on farming on the designated land;

(i) when the designated land is taken under statutory authority or is sold to a person by whom notice of an intention to take it under statutory authority was given; or
(j) when the designated land is disposed of to Her Majesty in right of Ontario, a Crown agency within the meaning of The Crown Agency Act, a municipality, Ontario Hydro, Her Majesty in right of Canada, or to an agent of Her Majesty in right of Canada.

5.—(1) Every tax imposed upon designated land by this Act is, until paid, a special lien in favour of Her Majesty in right of Ontario upon the designated land and has complete priority over every claim, privilege, lien, encumbrance, right, title or interest of any person that arose or came into existence as part of or subsequent to the disposition of the designated land as a result of which tax was imposed on the designated land, and such special lien has priority over every execution in the hands of any sheriff or other officer that affects the designated land, whether the designated land was subject to the execution before or after the disposition of the designated land.

(2) The special lien conferred by this Act does not attach to any designated land disposed of where the Minister has given his certificate that no lien is claimed with respect to the designated land, but the giving of the certificate does not destroy the special lien for tax resulting from any disposition of designated land occurring after the date as of which the certificate is given, and the giving of the certificate does not impair or relieve the transferor from his responsibility to pay any tax imposed by this Act.

(3) Where designated land is disposed of and, in order to recognize or give effect to the disposition, it is necessary to register upon the title to the designated land disposed of an instrument or writing under the registry system or land titles system, the special lien conferred by this Act does not attach to the designated land in respect of such disposition if there is attached to or made part of such instrument or writing, at the time it is tendered to a land registrar for registration, the affidavit of the transferor, or of some individual authorized in writing by the transferor to make such affidavit, stating that the disposition of designated land evidenced in the instrument or writing attached to such affidavit or of which the affidavit is a part is a disposition described in a clause and, where applicable, a subclause (which clause and subclause shall be expressly named in the affidavit) of section 4 of this Act, but the making of such affidavit does not impair or relieve the transferor from his responsibility to pay any tax imposed by this Act.

(4) Before the issue of a warrant under subsection 5, the Minister shall send by mail or by registered mail, or deliver by personal service, a notice to all persons who have an
interest, encumbrance or charge registered under the land titles system or the registry system against the designated land for the sale of which the warrant is to be issued that he intends to have the designated land that is subject to the special lien conferred by this Act sold pursuant to subsection 5, and such notice shall be given not less than thirty days or more than sixty days before the issue of the warrant, and shall be sent, in the case of a notice sent by mail, to the latest known address of each person to whom notice is to be given and to such other address as, in the opinion of the Minister, may be more likely to bring the notice to the person's attention.

(5) Subject to subsection 4, the Minister may, by his warrant directed to the sheriff of the county, district or judicial district in which is situate any designated land that is subject to the special lien conferred by this Act, require the sheriff to sell the designated land within six months or such longer period as is stated in the warrant, and the sheriff, upon receiving the warrant, shall proceed within the period specified to sell the land in the same manner as for a sale under a writ of execution issued out of the Supreme Court, and any person purchasing from the sheriff at such a sale shall take good title to the designated land free and clear of all encumbrances and claims of any kind of all persons whatsoever that do not have priority over the special lien but subject to all the rights and encumbrances of persons who have an interest in the designated land that have priority over the special lien.

(6) The proceeds of sale received by the sheriff from a sale under a warrant authorized by subsection 5 shall be applied first to pay the costs and expenses of the sheriff in conducting the sale and next in payment of the amount of tax that was a special lien on the designated land conferred by this Act, and any surplus thereafter remaining shall be paid, in order of their priorities, to those whose rights in the designated land were subject to the special lien, and, if the order of those priorities cannot be established by the sheriff, shall be paid into court to be dealt with as the court shall direct.

(7) At any time prior to a sale authorized by subsection 5, any person interested in the designated land affected by the special lien conferred by this Act may pay to the Minister a sum sufficient to discharge the special lien, and if the special lien is discharged by some person having an encumbrance against the designated land, the amount accepted by the Minister may be added to that person's encumbrance and shall, for all purposes and in every court, thereafter be treated as part of the encumbrance and shall bear interest at the rate provided for in the encumbrance and shall be collectable in the same way as the encumbrance is enforceable.
(8) Upon such conditions as he may impose, the Minister may abandon, postpone, release or waive with respect to all or any part of any designated land any special lien conferred by this Act.

6. Where the result of one or more sales, exchanges, declarations of trust, or other transactions of any kind whatever is that a transferor has disposed of property under circumstances such that he may reasonably be considered to have artificially or unduly reduced the amount of the taxable value of designated land that he has disposed of, the taxable value shall be computed as if such reduction had not occurred.

7. Where a person has paid an amount under this Act as tax that is not payable as tax under this Act, the Minister may, upon receipt of satisfactory evidence that the amount was wrongly paid, authorize the Treasurer to refund such amount or any part thereof, but no refund shall be made unless it is applied for within three years after the date of the payment of any amount that is alleged not to have been payable as tax under this Act.

8.—(1) Where any person responsible for the payment of tax fails to pay it as required under this Act, the Minister may make an assessment of the tax for which such person is responsible and which has not been paid.

(2) Where the Minister has made an assessment under subsection 1, he shall send by mail or by registered mail or deliver by personal service a notice of assessment to the person so assessed, and the amount of the assessment shall be remitted to the Minister by the person so assessed within thirty days from the date of mailing or delivery of the notice of assessment.

(3) Where the Minister has made an assessment under subsection 1, the notice of assessment may provide that the amount assessed is payable forthwith.

(4) The Minister may, at any time he considers reasonable, assess or reassess any tax payable by any person under this Act.

(5) Where it appears from an inspection, audit or examination of the books of account, records or documents of any person that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax payable in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount of the tax.
(6) The Minister shall send by mail or by registered mail or deliver by personal service a notice of the assessment made under subsection 4 or 5 to the person so assessed at his latest known address, and the notice may provide that the amount assessed is payable forthwith.

(7) Liability for tax is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

(8) The Minister is not bound by any information delivered by or on behalf of any person responsible for the payment of the tax and may, notwithstanding any information that has been delivered or if no information has been delivered, assess the tax payable under this Act.

(9) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

(10) The amount of any assessment is payable within the time required by the notice of assessment whether or not an objection or appeal from the assessment is made or taken.

9.—(1) Where a person objects to an assessment made under section 8, he may, within ninety days after the day of mailing or delivery by personal service of the notice of assessment, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister.

(3) Upon receipt of a notice of objection, the Minister shall with all due dispatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the person who has made the objection of his action by registered mail.

10.—(1) After the Minister has given the notification required by subsection 3 of section 9, a person who has served notice of objection under section 9 may appeal to the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day on which notice has been mailed to such person under
subsection 3 of section 9, and an appeal under this section shall not be made to the Divisional Court.

(2) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or with the Local Registrar of the Supreme Court for the county, district or judicial district in which is situate the designated land the tax imposed on which is under appeal.

(3) A notice of appeal shall be served on the Minister by being sent by registered mail addressed to the Minister.

(4) The person appealing shall set out in his notice of appeal a statement of the allegations of fact and the statutory provisions and reasons that he intends to submit in support of his appeal.

(5) After the service on him of a notice of appeal under this section, the Minister shall with all due despatch serve on the person appealing and file in the Supreme Court where the notice of appeal was filed a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he considers relevant.

(6) Upon the filing in the Supreme Court of the material referred to in subsection 5, the matter shall be deemed to be an action in the court, and the practice and procedure of the court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter that is deemed to be an action under this section, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court.

(7) The court may dispose of an appeal by allowing it, by dismissing it, or by allowing it in part and directing the Minister to vacate the assessment, vary the assessment or reconsider the assessment and reassess as indicated by the judgment of the court.

(8) In delivering judgment disposing of an appeal, the court may order payment or refund of tax by the appellant or by the Treasurer, as the case may be, and may make such order as to cost as is considered proper.

(9) No assessment shall be vacated or varied on appeal by reason only of an irregularity, informality, omission or
error on the part of any person in the observance of any directory provision of this Act.

(10) The time within which a notice of objection under subsection 1 of section 9 or a notice of appeal under subsection 1 of this section is to be served may be extended by the Minister if application for extension is made before expiration of the time for service of the notice of objection or notice of appeal, as the case may be.

11. Any payment to the Treasurer under this Act, other than a payment of penalties or fines imposed for offences under this Act, shall first be applied to any interest payable on any tax imposed by this Act.

12.—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises where any business is carried on or any property is kept or anything is done in connection with any business or where any books or records are or should be kept, and may,

(a) audit or examine the books, records, accounts, vouchers, letters, telegrams, or other documents that relate or may relate to any disposition of designated land or to the amount of tax payable under this Act;

(b) examine any designated land disposed of or any property the value of which formed or may have formed part of the adjusted value or proceeds of disposition referable to any disposition of designated land, or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of any information that was or should have been furnished to the Minister or the amount of any tax payable under this Act;

(c) require any transferor or any person to whom a disposition of designated land has been or may have been made or, if such transferor or person is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof or any other person on the premises of such transferor or person to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises with him; and
(d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

(2) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any transferor, or if such transferor is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof,

(a) any information concerning designated land or a disposition of designated land that is believed to have occurred; or

(b) production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

(3) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding any amount for or paying or liable to pay any amount to a transferor or to any person to whom a disposition of designated land has been or may have been made production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents within such reasonable time as is stipulated therein.

(4) The Minister may, for any purpose related to the administration or enforcement of this Act, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon ex parte application, authorize in writing an officer of the Ministry of Revenue, together with such members of the Ontario Provincial Police Force or other peace officers as he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

(5) The Minister may, by registered letter or by a demand served personally, require the production under oath or
otherwise by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer for the purpose of determining what tax, if any, is imposed by this Act on designated land and what person is responsible for its payment, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

(6) Where a book, record or other document has been seized, copies examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make or cause to be made one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way.

(7) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or shall prevent or attempt to prevent any person doing any such thing.

(8) Notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do.

(9) Declarations or affidavits in connection with statements or transcriptions of information submitted pursuant to this section may be made, and oaths 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.

13.—(1) Upon default of payment of any amount assessed under section 8,

(a) the Minister may bring an action for the 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 Minister 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; and

(b) the Minister may issue a warrant directed to the sheriff of any county, district or judicial district in which any property of a person liable to make a
payment or remittance under this Act is located or situated for the amount of the tax owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

(2) For the purpose of any proceeding or prosecution taken or instituted under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue.

(3) The use of any of the remedies provided by this section does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of Her Majesty in right of Ontario.

14.—(1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment or remittance under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

(3) Every person who has discharged any liability to a person liable to make a payment or remittance under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser.

(4) Where a person who is or is about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carries on business under
a name or style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(5) Where the persons who are or are about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

(6) Subject to the provisions of The Wages Act, where the Minister has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally.

15.—(1) Every person who recklessly or knowingly makes an affidavit provided for in subsection 3 of section 5 that is false in some material particular is guilty of an offence and on summary conviction is liable to a fine of not less than $100 plus an amount that is not less than the tax imposed on the designated land by subsection 1 of section 2, as determined under subsection 3, and resulting from the disposition with respect to which the affidavit relates.

(2) Every person who is required to remit to the Minister the tax imposed by this Act and who fails to remit the tax is guilty of an offence and on summary conviction is liable to a fine of not less than $100 and an additional amount of not less than the tax, as determined under subsection 3, that should have been remitted.

(3) The Minister shall determine the amount of the tax referred to in subsection 1 or 2 from such information as is available to him, and shall issue a certificate as to the amount, but except where the Minister considers that there has been deliberate evasion of this Act, he shall not take into account a period of more than three years in determining the amount of tax referred to in the certificate.
(4) In any prosecution under subsection 1 or 2, a certificate that is signed or that purports to be signed by the Minister or Deputy Minister of Revenue and that states the amount of tax is prima facie evidence of the amount of tax referred to in subsection 1 or 2 and of the authority of the person giving or making the certificate without any proof of appointment or signature.

(5) Any information in respect of an offence under this Act may be for one or more than one offence, and no information, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

(6) Neither the application of any provision of this section nor the enforcement of any penalty under this Act suspends or affects any remedy for the recovery of any tax payable under this Act.

16.—(1) Every person who contravenes section 12 is guilty of an offence and on summary conviction is liable to a fine of $25 for each day during which the default continues.

(2) Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than $25 and not more than $200, and for any subsequent offence to a fine of not less than $100 and not more than $1,000.

(3) Every person who has,

(a) knowingly, made, participated in, assented to or acquiesced in the making of false or deceptive statements required by or under this Act or the regulations;

(b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of any record, document or thing;

(c) willfully, in any manner, evaded or attempted to evade compliance with this Act or payment of tax imposed by this Act; or

(d) conspired with any person to commit any offence described in clause a, b or c,

is guilty of an offence and on summary conviction, in addition to any penalty otherwise provided by this Act, is
liable to a fine of not less than $200 and not more than an amount equal to double the amount of the tax that should have been remitted or that was sought to be evaded, or to imprisonment for a term of not more than two years, or to both.

(4) Any officer, director or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in the commission of any act which is an offence under this Act 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.

17. An information in respect of an offence against this Act shall be laid within six years of the time when the matter of the information arose.

18.—(1) Except as authorized by this section, no person employed by the Government of Ontario shall,

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

(2) Notwithstanding any other Act, but subject to subsection 3, no person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

(a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or

(b) to produce any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

(3) Subsections 1 and 2 do not apply in respect of,

(a) criminal proceedings under any Act of the Parliament of Canada; or

(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or
(c) proceedings relating to the administration or enforcement of this Act or the collection or assessment of tax.

Exception for internal administration

(4) A person employed by the Government of Ontario may, in the course of his duties in connection with the administration or enforcement of this Act,

(a) communicate or allow to be communicated to an official or authorized person employed by the Government of Ontario in the administration and enforcement of any laws relating to the raising of revenues for provincial purposes any information obtained by or on behalf of the Minister for the purposes of this Act; and

(b) allow an official or authorized person employed by the Government of Ontario in the administration or enforcement of any laws relating to the raising of revenues for provincial purposes to inspect or have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

Exception for objection or appeal, etc.

(5) Notwithstanding any other provision of this Act, the Minister may permit a copy of any book, record, writing, return or other document obtained by him or on his behalf for the purposes of this Act to be given to,

(a) the person from whom the book, record, writing, return or other document was obtained; or

(b) any person,

(i) for the purposes of any objection or appeal that has been or may be taken by that person under this Act arising out of any assessment of tax, interest or penalties under this Act in connection with which the book, record, writing, return or other document was obtained, or

(ii) by whom any amount payable under this Act is payable or has been paid,

or the legal representative of any person mentioned in clause a or b or the agent of any such person authorized in writing in that behalf.

Exception for tax enforcement in other jurisdictions

(6) Notwithstanding any other provision of this Act, the Minister may permit information or a copy of any book,
record, writing, return or other document obtained by him or on his behalf for the purposes of this Act to be given to,

(a) a minister of the Government of Canada or any officer or employee employed under a minister of the Government of Canada for the purposes of administration of any Act of the Parliament of Canada imposing any tax or duty; or

(b) a minister of the government of any province of Canada or officer or employee employed under that minister, for the purposes of administering and enforcing an Act of the Legislature of that province imposing any tax or duty,

if the minister of the Government of Canada or the minister of the government of another province, as the case may be, is permitted to give to the Minister information or copies of any book, record, writing, return or other document obtained by or on behalf of the minister of the Government of Canada, or the minister of the government of that other province, as the case may be, in the administration or enforcement of that Act for the purposes of the administration of this Act.

19. Where it is established to the satisfaction of the Minister that, prior to the 10th day of April, 1974, there existed a written agreement providing for the disposition of designated land either,

(a) at a definite price or consideration the amount or value of which is set out in the agreement and is not determinable or fixed by reference to any date or period of time after the 9th day of April, 1974; or

(b) at a price or consideration the amount or value of which is determinable under the agreement by reference only to a valuation to be made as of a date not later than the 9th day of April, 1974,

no tax is payable under this Act by the transferor with respect to such disposition of designated land.

20.—(1) In this section, “investment property” means designated land that includes buildings that are (except for any part thereof ordinarily inhabited by the owner thereof as his principal residence) predominantly rented to be ordinarily inhabited by the tenant or occupant as his
principal residence, and that have a value of not less than 40 per cent of the fair market value of the designated land, including such buildings.

(2) Where, after the 9th day of April, 1977, designated land that is an investment property is disposed of and, during the three years immediately preceding such disposition, no other disposition of or with respect to that designated land has occurred and the designated land has, during the three years immediately preceding such disposition, been an investment property of the transferor, the taxable value, computed as if this section was not applicable, of the investment property so disposed of shall be reduced by an amount equal to three-tenths of such taxable value plus one-tenth thereof for each full year (commencing on or after the 9th day of April, 1974) in excess of three years during which the investment property disposed of was an investment property owned by the transferor and during which no previous disposition of or with respect thereto occurred.

21.-(1) Notwithstanding any other provision of this Act, where designated land is disposed of by a transferor who has, prior to the disposition and in accordance with the requirements of a subdivision agreement between a municipality and the transferor and enforceable against the transferor, subdivided and serviced the designated land disposed of by him, and where, prior to or as part of the disposition, the transferor has entered into an agreement under seal with the person (hereinafter in this section called the "agreeing person") to whom the designated land is disposed of, and that agreement contains a covenant by the agreeing person that he assumes the liability of the transferor for the tax imposed by subsection 1 of section 2 upon the designated land so disposed of and a covenant that the agreeing person will, within the nine months immediately following the disposition, commence construction of buildings on at least 50 per cent of the building sites or lots included in the designated land disposed of to him and will, within the eighteen months immediately following the disposition, commence construction of buildings on the remainder of the building sites or lots included in the designated land disposed of to him, the tax imposed by subsection 1 of section 2 with respect to the disposition to the agreeing person and for which he has covenanted to be liable is, subject to subsection 4, payable by the agreeing person immediately upon his failure to comply with the covenant to commence construction of buildings required by this subsection, and the tax is recoverable and collectable by the Minister in
the same manner and with all the rights and remedies provided by this Act as if the agreeing person were the transferor making such disposition, and where an agreement described in this subsection is made between the transferor and an agreeing person, the transferor disposing of designated land to the agreeing person is not liable for the payment of the tax imposed by subsection 1 of section 2 with respect to such disposition.

(2) The tax that an agreeing person is liable to pay under subsection 1 remains a special lien conferred by section 5 on the designated land disposed of, but the special lien shall not have priority over any mortgage or charge given by the agreeing person with respect to the designated land disposed of to him in accordance with subsection 1 that is given for the purpose of securing the advance of money borrowed for the purpose of constructing upon the designated land any building that the agreeing person has covenanted in accordance with subsection 1 to construct.

(3) Where, subject to subsection 4, the covenants required by subsection 1 to be contained in an agreement made by the agreeing person have been complied with, the tax imposed by subsection 1 of section 2 with respect to the disposition to the agreeing person and for which he covenanted to be liable is cancelled, but such cancellation does not affect in any way any liability of the agreeing person to pay tax on any disposition by him of designated land, including the designated land acquired by him under his agreement with the transferor made in accordance with subsection 1.

(4) Where the Minister is satisfied that special circumstances resulting in undue hardship for an agreeing person in complying with his covenant to commence construction of buildings in accordance with subsection 1 have occurred, he may extend any time referred to in subsection 1 within which an agreeing person is required to comply with a covenant to commence construction of buildings, and upon such extension being granted, an agreeing person's liability to pay tax shall not arise until the expiration of the extended time without the covenant having been complied with.

22. Notwithstanding any other provision of this Act, where a transferor who has not previously disposed of designated land exempt in whole or in part under this section disposes of designated land that was his principal residence for a period of five consecutive years prior to his ceasing to be over age or a person over age...
ordinarily to inhabit the designated land as his principal residence, and where, at the time he ceased ordinarily to inhabit the designated land as his principal residence, the transferor was sixty-five years of age or older, and where, at the time of the disposition the transferor is ordinarily inhabiting as his principal residence premises that are not owned in whole or in part by him or his spouse or by both of them, the designated land so disposed of is exempt from the tax imposed by subsection 1 of section 2, to the extent that the designated land would have been exempt by virtue of clause e of section 4 had the transferor disposed of the designated land at the time he ceased ordinarily to inhabit it as his principal residence and had clause e of section 4 then been applicable to the disposition.

Regulations 23.—(1) The Minister may make regulations prescribing any form required by this Act 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.

Idem (2) The Lieutenant Governor in Council may make regulations,

(a) exempting from tax any designated land or class of designated land or exempting from tax any designated land with respect to which any disposition or class of disposition occurs;

(b) authorizing any person to grant, after an investigation of such matters as are specified, any exemption that may be given under clause a;

(c) authorizing the refund of any tax and specifying the conditions upon which such refund may be made;

(d) prescribing the evidence required to establish facts relevant to assessments under this Act;

(e) requiring any class of persons to make information returns respecting any class of information required in connection with assessments under this Act;

(f) requiring a person who is, by a regulation made under clause e, required to make an information return to supply a copy of the information return or of a prescribed portion thereof to the person or persons in respect of whose designated land the information return or portion thereof relates;
(g) authorizing a designated officer or class of officers employed by the Government of Ontario to exercise powers or perform duties of the Minister under this Act;

(h) prescribing any rate of interest that is to be prescribed;

(i) providing for the payment of interest on any refund or on any payment of tax authorized by regulation, and prescribing the rate of such interest and the method by which it is to be calculated;

(j) defining any word or expression used in this Act that has not already been expressly defined in this Act;

(k) providing for relaxing the strictness of this Act relative to the incidence of tax hereunder in special circumstances where, without such relaxation, inconvenience or hardship might result or the development of designated land might be impeded;

(l) that are considered necessary for the purpose of carrying into effect the provisions of this Act according to their intent and of supplying any deficiency therein.

(3) A regulation is, if it so provides, effective with reference to a period before it was filed.

24. Upon receiving Royal Assent, this Act shall be deemed to have come into force on the 9th day of April, 1974 and to apply to every disposition made, tax imposed and everything that may be required to be done under this Act that is made, imposed or done after the 9th day of April, 1974.

25. This Act may be cited as The Land Speculation Tax Act, 1974.