

This Act is current to 6 December 2016

This Act has "Not in Force" sections. See the [Table of Legislative Changes](#).

LOGGING TAX ACT

[RSBC 1996] CHAPTER 277

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Definitions

1 In this Act:

"commissioner" means the Commissioner of Income Tax or another person designated by the minister;

"income" means the amount determined as income under Division B of the Income Tax Act (Canada);

"income derived from logging operations" means the aggregate of the amounts under the following paragraphs:

(a) if

(i) standing timber is cut in British Columbia by the taxpayer or logs cut from standing timber in British Columbia are acquired by the taxpayer, and

(ii) the logs obtained are sold by the taxpayer in British Columbia,

the taxpayer's income for the year from the sale;

(b) if standing timber in British Columbia or the right to cut standing timber in British Columbia is sold by the taxpayer, the taxpayer's income for the year from the sale;

(c) if

(i) standing timber is cut or caused to be cut in British Columbia by the taxpayer or logs cut from standing timber in British Columbia are acquired by the taxpayer, and

(ii) the logs obtained are exported from British Columbia,

the amount computed by deducting from the value, as determined by the minister, of the logs exported in the taxation year, the aggregate of the costs of acquiring, cutting, transporting and selling the logs;

(d) if

(i) standing timber is cut or caused to be cut in British Columbia by the taxpayer or logs cut from standing timber in British Columbia have been acquired by the taxpayer, and

(ii) if the taxpayer operates or causes to be operated a sawmill, pulp or paper plant, or other place for processing logs in Canada,

the income of the taxpayer for the year from all sources minus the aggregate of

(iii) the taxpayer's income from sources other than logging operations,

(iv) any amount included in the aggregate as determined under paragraphs (a), (b) and (c), and

(v) as applicable,

(A) an amount equal to 8% of the original cost to the taxpayer of properties described in Schedule II of the Regulations of the Income Tax Act (Canada) used by the taxpayer in the taxation year in the producing of primary and secondary forest products,

(B) if the amount determined under clause (A) is greater than 65% of the income remaining after making the deductions under subparagraphs (iii) and (iv), 65% of the income remaining,

(C) if the amount determined under clause (A) is less than 35% of the income remaining, 35% of the income remaining;

(e) if paragraph (d) applies and the taxpayer cuts standing timber outside British Columbia or acquires logs cut from standing timber outside British Columbia there may be deducted from the income determined under paragraph (d) the portion of the amount that bears the same ratio that the quantity of standing timber cut outside British Columbia and logs cut from standing timber outside British Columbia acquired by the taxpayer in the taxation year bears to the total quantity of standing timber cut and logs acquired by the taxpayer in the taxation year;

"log" includes piles, poles, pulp logs, pulpwood, railway ties, saw logs, spars, wood chips and other cut timber of whatever length, whether round or flatted;

"logging operations" includes

(a) the sale of standing timber,

(b) the sale of the right to cut standing timber,

(c) the sale of logs,

(d) the sale of primary and secondary forest products,

(e) the delivery of logs to a sawmill, pulp or paper plant, or other place for processing or manufacturing,

(f) the delivery of logs to a carrier for export,

(g) the export of logs,

(h) the acquisition of standing timber,

(i) the acquisition of the right to cut standing timber,

(j) the cutting of logs from standing timber,

(k) the acquisition of logs,

(l) the import of logs,

(m) the producing of primary and secondary forest products,

(n) the transportation of logs, or

(o) any combination of operations referred to in paragraphs (a) to (n);

"primary forest product" means everything resulting from the processing, treating, manufacturing or breaking down of logs, their by-products or wastes;

"pulp and paper" includes all forms of processed or manufactured wood pulp, whether ultimately manufactured into paper or otherwise;

"secondary forest product" means everything resulting from the processing, treating, manufacturing or breaking down of a primary forest product;

"standing timber" includes all trees on Crown land, Crown granted land and other land;

"taxation year" means the fiscal period, not exceeding 12 months, for which the accounts of the business of a taxpayer have been or are ordinarily made up and accepted for purposes of assessment under this Act, and in the absence of an established practice the fiscal period is that which the taxpayer adopts, except that if a taxpayer purports to change the taxpayer's usual and accepted fiscal period, the minister may, in the minister's discretion, disallow the change;

"taxes" includes all taxes on income imposed, assessed, assessable or payable under this Act, and all penalties and interest that are, or may be, added to taxes under this Act;

"taxpayer" means

(a) a person other than a partnership who engages in or has income derived from logging operations in British Columbia, and

(b) a person who is a member of a partnership which engages in or has income derived from logging operations in British Columbia

and includes their heirs, executors, administrators, small estate declarants, trustees and agents.

Tax payable

2 For each taxation year, a taxpayer must pay a tax equal to the lesser of

- (a) 10% of the taxpayer's income derived from logging operations in British Columbia, or
- (b) 150% of the credit that would have been allowable under section 127 (1) of the Income Tax Act (Canada) if
 - (i) the tax referred to in paragraph (a) had been paid, and
 - (ii) the tax otherwise payable by the taxpayer had, for the purposes of section 127 (1) of the Income Tax Act (Canada), been determined without allowing a deduction under section 127 (3) or (5) of the Income Tax Act (Canada).

Deemed payment in first 2 years of operation

2.1 If a taxpayer has made a deduction for a taxation year in accordance with section 17 of the Income Tax Act, the taxpayer is deemed

- (a) to have paid on account of tax under this Act for the taxation year the amount that would have been deducted under section 15 of the Income Tax Act if no amount had been deducted under section 17 of that Act, and
- (b) to have paid that amount at the time of filing the return required under section 6 of this Act.

Partnership income

3 If a partnership has income derived from logging operations, each person who is a member of the partnership is deemed to have income derived from logging operations in proportion to the person's share in the total partnership income derived from logging operations.

Reporting engaging in logging operations

4 A person who is engaged in logging operations in British Columbia, or who has been so engaged in a period covered by this Act, must at once notify the commissioner of the fact that the person is or has been engaged in logging operations.

Reporting discontinuance of logging operations

5 A person referred to in section 4 who discontinues logging operations in British Columbia must, on the discontinuance, notify the commissioner of the discontinuance.

Return of income

6 (1) Within 6 months after the end of the taxation year for a taxpayer, without any notice or demand, the taxpayer must deliver to the commissioner a return of the taxpayer's income during the taxation year, including an estimate of the amount of tax payable.

(2) As an exception to subsection (1), a general partner in a limited partnership may, with the approval of the commissioner and if no tax is payable for the taxation year, file a single return on behalf of all limited partners in the partnership, and if the general partner does so, the limited partners need not file returns in respect of that partnership.

Return by trustee, etc.

7 A trustee in bankruptcy, assignee, liquidator, receiver, administrator and other person administering, managing, winding up, controlling or otherwise dealing with the property or business of a taxpayer who has failed to make a return under this Act must make the required return.

Power to demand information or return

8 (1) If the commissioner desires information or a return from a person who has not made a return or a complete return, the commissioner may, by registered letter, demand from the person the information or return.

(2) The person must deliver to the commissioner the information or return required within 30 days after the date of the mailing of the demand letter under subsection (1).

(3) In proceedings under this Act, an affidavit by the commissioner in which are stated the facts necessary to establish compliance by the commissioner with this section or default by the person on whom a demand is made must be admitted as evidence in any court, and is proof of the facts stated.

(4) An affidavit referred to in subsection (3) must have attached to it as an exhibit a copy of the demand letter.

Form of return

9 (1) A return required to be made under this Act must be in the form prescribed by the commissioner, and must set out fully the information that the form calls for.

(2) The person required to make a return under this Act must deliver it to the commissioner within the time limited for making the return.

(3) The commissioner may at any time extend the time for making a return.

(4) A return of a corporation or partnership must be made and signed by an officer or member having personal knowledge of the affairs of the corporation or partnership.

Power to make assessment

10 (1) The commissioner is not bound to accept as correct the return made by a person.

(2) If the commissioner thinks it necessary or expedient, or if the commissioner suspects that a person who has not made a return is liable to assessment, the commissioner or an officer designated by the commissioner must make an independent investigation as to the income of that person.

(3) For the purposes of subsection (2) the commissioner or officer may

(a) enter premises and examine property,

(b) have access to and examine and take copies of and extracts from all books, accounts, vouchers and documents of the person, and

(c) make the commissioner's or officer's own valuation and assessment of the taxable amount of the income.

(4) The commissioner or officer may in any case examine the person on oath or otherwise, and on request the person must attend and submit to examination.

Power to make inquiry

11 (1) An officer authorized in writing by the minister may make inquiries the officer thinks necessary for ascertaining the income of a taxpayer.

(2) For the purposes of subsection (1), the officer may make an order requiring a person to do either or both of the following:

(a) attend, in person or by electronic means, before the officer to answer questions on oath or affirmation, or in any other manner;

(b) produce for the officer a record or thing in the person's possession or control.

(3) The officer may apply to the Supreme Court for an order

(a) directing a person to comply with an order made under subsection (2), or

(b) directing any directors and officers of a person to cause the person to comply with an order made under subsection (2).

Contempt proceeding for uncooperative person

11.1 The failure or refusal of a person subject to an order under section 11 to do any of the following makes the person, on application to the Supreme Court by the officer authorized to act under that section, liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court:

(a) attend before the officer;

(b) take an oath or make an affirmation;

(c) answer questions;

(d) produce records or things in the person's possession or control.

Immunity protection

11.2 (1) Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against the officer authorized to act under section 11, or a person acting on behalf of or under the direction of the officer, because of anything done or omitted

(a) in the performance or intended performance of any duty under section 11, or

(b) in the exercise or intended exercise of any power under section 11 or 11.1.

(2) Subsection (1) does not apply to a person referred to in that subsection in relation to anything done or omitted by that person in bad faith.

Power to specify books and records

12 (1) A taxpayer must keep adequate books of account and records for the purposes of this Act.

(2) If, in the opinion of the commissioner, the books or records kept by a taxpayer are inadequate for the purposes of this Act, the commissioner may specify the books and records to be kept by the taxpayer.

(3) The minister may direct the commissioner to make the commissioner's own valuation and assessment of the taxable amount of the income of a taxpayer if

(a) the books of account and records kept by a taxpayer are, in the opinion of the minister, inadequate for this Act,

(b) the taxpayer, on the request of the commissioner, fails or refuses to produce the taxpayer's books of account or records for examination by the commissioner, or

(c) the taxpayer alleges that the taxpayer's books of account or records have been lost or destroyed.

Duty of certain persons to give information

13 A person, in whatever capacity the person is acting, who is in receipt of any money, thing of value or profits or gains arising from any source of or belonging to a taxpayer must, when required to do so by notice from the commissioner, prepare and deliver to the commissioner any relevant information required within 30 days after the date of the mailing of the notice.

Confidentiality of information and records

14 (1) A person who has custody of or control over information or records under this Act must not disclose the information or records to any other person except as follows:

- (a) in the course of administering or enforcing this or another taxation Act;
- (a.1) in the course of administering or enforcing Part 11.1 of the Forest Act;
- (b) in court proceedings relating to this or another taxation Act;
- (c) as provided in, or ordered under, section 239 or 242 of the Family Law Act or section 8.2 or 9 of the Family Maintenance Enforcement Act;
- (d) for the purpose of complying with an agreement or arrangement referred to in section 14.1;
- (e) for the purpose of the compilation of statistical information by the government or the government of Canada.

(2) Without limiting any provision of this or any other enactment, the minister and the minister responsible for the administration of the Forest Act may

- (a) collect timber harvest information that is relevant to the administration and enforcement of this Act, and
- (b) share with each other, in accordance with an information-sharing agreement or arrangement entered into under section 14.1 of this Act, timber harvest information that is relevant to the administration and enforcement of this Act.

(3) In this section, "timber harvest information" means

- (a) the name and address of persons who harvest timber in British Columbia and the applicable timber mark number,
- (b) the volume of timber harvested in British Columbia by each of those persons, and
- (c) any stumpage paid or payable to the government by each of those persons.

Information-sharing agreements or arrangements

14.1 (1) With the prior approval of the Lieutenant Governor in Council, the minister may, for the purposes set out in subsection (2), enter into an information-sharing agreement or arrangement with any of the following:

- (a) the government of Canada or an agency of that government;
- (b) the government of a province or other jurisdiction in Canada or an agency of that province or other jurisdiction;
- (c) a public body as defined in the Freedom of Information and Protection of Privacy Act.

(2) An information-sharing agreement or arrangement may be entered into for the purposes of the administration of this Act, the Income Tax Act, the Income Tax Act (Canada) or Part 11.1 of the Forest Act.

Instalment payments and interest

15 (1) If a taxpayer's tax payable for the preceding taxation year exceeds the amount prescribed by the Lieutenant Governor in Council, the taxpayer must pay to the government, on account of the taxpayer's tax payable under this Act for the taxation year in respect of which the tax is payable,

(a) not later than the end of the taxation year in respect of which the tax is payable, an amount equal to

(i) 50% of the taxpayer's tax payable for the preceding taxation year, or

(ii) 50% of the taxpayer's estimated tax payable for that taxation year, and

(b) not later than the last day of the 3rd month following the month in which the taxation year in respect of which the tax is payable ended, an amount equal to

(i) 25% of the taxpayer's tax payable for the preceding taxation year, or

(ii) 25% of the taxpayer's estimated tax payable for that taxation year.

(2) If a taxpayer fails to make a payment under subsection (1) (a) on or before the date required by that subsection, the taxpayer must pay to the government interest on the amount equal to 50% of the lesser of

(a) the taxpayer's tax payable for the preceding taxation year, and

(b) the taxpayer's tax payable for the taxation year in respect of which the tax is payable.

(3) If a taxpayer fails to make a payment under subsection (1) (b) on or before the date required by that subsection, the taxpayer must pay to the government interest on the amount equal to 25% of the lesser of

(a) the taxpayer's tax payable for the preceding taxation year, and

(b) the taxpayer's tax payable for the taxation year in respect of which the tax is payable.

(4) A taxpayer must pay interest under subsection (6) if the taxpayer makes a payment under subsection (1) (a) on or before the date required by that subsection that is less than the amount that is equal to 50% of the lesser of

(a) the taxpayer's tax payable for the preceding taxation year, and

(b) the taxpayer's tax payable for the taxation year in respect of which the tax is payable.

(5) A taxpayer must pay interest under subsection (6) if the taxpayer makes a payment under subsection (1) (b) on or before the date required by that subsection that is less than the amount that is equal to 25% of the lesser of

(a) the taxpayer's tax payable for the preceding taxation year, and

(b) the taxpayer's tax payable for the taxation year in respect of which the tax is payable.

(6) A taxpayer who must pay interest under this subsection must pay to the government interest on the amount by which the amount referred to in subsection (4) or (5) exceeds the payment referred to in that subsection.

(7) Interest payable under subsection (2), (3) or (6)

(a) must be calculated at the rate and in the manner prescribed by the Lieutenant Governor in Council, and

(b) is payable from the date on which the taxpayer was required to make the payment under subsection (1) until the earlier of

(i) the date of payment, and

(ii) the date a return is required to be filed under section 6 (1).

Payment with return and interest

15.1 (1) On or before the day a taxpayer is required to file a tax return for a taxation year, the taxpayer must pay the amount remaining unpaid of the taxpayer's tax payable under this Act for the taxation year as estimated in the tax return.

(2) If, for any period that begins after the day a taxpayer is required to file a tax return for a taxation year, the taxpayer's tax payable under this Act exceeds the total of all amounts paid before that period on account of that tax payable, the taxpayer must pay to the government interest on the amount of the excess for that period calculated at the rate and in the manner prescribed by the Lieutenant Governor in Council.

Waiver or cancellation of interest

15.2 The commissioner may at any time waive or cancel all or part of any interest otherwise payable under this Act by a taxpayer.

Duty of trustee to pay

16 A person who is required by section 7 to make a return of income must, to the extent of the property or business that the person is administering, managing, winding up or otherwise controlling or dealing with, pay any tax and interest and penalties assessed and levied with respect to that income before making a distribution of that property or business.

Duty of trustee, etc., to obtain certificate before distribution

17 A trustee in bankruptcy, assignor, administrator and other similar person, before distributing assets under the person's control, must obtain a certificate from the commissioner that no unpaid assessment of tax, interest and penalties properly chargeable against the person, property or business, as the case may be, remains outstanding.

Examination of returns

18 The commissioner must have all returns received by the commissioner examined as soon as practicable after receipt.

Notice of assessment

19 (1) After completion of the examination of a taxpayer's return, the commissioner must

(a) by assessment, verify or alter the amount of the tax as estimated by the taxpayer in the return, and

(b) give a notice of the assessment to the taxpayer, that is dated as of the day on which it is mailed.

(2) Any additional amount of tax due over the estimated amount, as shown by the notice of assessment, must be paid by the taxpayer to the commissioner not later than 30 days after the day on which the notice of assessment is issued.

Continuing liability

20 (1) Despite a prior assessment, or if no assessment has been made, a taxpayer continues to be liable for taxes due under this Act.

(2) The commissioner may assess or reassess a taxpayer for taxes for a taxation year

(a) at any time

(i) if the taxpayer has failed to file a return for the taxation year,

(ii) if any person has made any misrepresentation or committed any fraud in making the taxpayer's return or supplying information under this Act for the taxation year, or

(iii) if the taxpayer has filed a waiver under subsection (3) for the taxation year, or

(iv) [Repealed 2010-18-67.]

(b) within 5 years after the date of the original assessment for the taxation year.

(3) A taxpayer may file with the commissioner a waiver for the taxation year, in the form and containing the information required by the commissioner, within 5 years of the date of the original assessment.

(4) A waiver filed under subsection (3) continues in effect until 6 months after the taxpayer files with the commissioner a notice revoking the waiver in the form and containing the information required by the commissioner.

(5) If a taxpayer is issued a notice of assessment, reassessment or additional assessment under the Income Tax Act (Canada) that shows a change in an amount relevant to the calculation of tax payable,

(a) the taxpayer must notify the commissioner within 90 days of receiving the notice, and

(b) despite subsection (2) (b), the commissioner may assess or reassess a taxpayer for taxes for a taxation year before the end of the later of

(i) the last day on which an assessment or reassessment may be made under subsection (2) (b), and

(ii) one year after the day that is the earlier of

(A) the day that the commissioner is notified by the taxpayer under paragraph (a) of this subsection, and

(B) the day that the commissioner is notified of the assessment, reassessment or additional assessment under the Income Tax Act (Canada).

Refund of overpayment

21 (1) If the examination of a taxpayer's return discloses that an overpayment has been made by the taxpayer, the minister, on the certificate of the commissioner as to the facts, must refund the amount overpaid to the taxpayer from the consolidated revenue fund.

(2) As an exception to subsection (1), if further tax payable by the taxpayer is due or accruing due,

(a) the amount overpaid must, to the extent of it, be applied in satisfaction of that tax, and

(b) notice must be given to the taxpayer, accompanied by the refund of any remainder of the amount overpaid remaining unapplied.

(3) A refund under this section may be made with the notice of assessment or after giving the notice of assessment.

Giving notice of assessment

22 (1) A notice of assessment under this Act must be in writing.

(2) A notice of assessment under this Act is sufficiently given if it is

(a) delivered to the taxpayer personally, or

(b) delivered at or is mailed addressed to the address of the taxpayer as stated in the taxpayer's last return made under this Act or as last known to the commissioner.

(3) If the address referred to in subsection (2) (b) is not known to the commissioner, the notice of assessment may be mailed addressed to the taxpayer at the post office nearest to the place where the income arose.

(4) The notice of assessment is deemed, for the purposes of this Act, to be given to the taxpayer on the day on which it is delivered or mailed.

(5) Subject to an appeal under this Act, the entry by the commissioner, or by a person under the direction of the commissioner, of particulars of the assessment and taxation of a person in respect of income under this Act in any book or document kept by the commissioner, or the giving of a notice of assessment to a person under this Act, constitutes due assessment and taxation of that person for all purposes of this Act in respect of the income set out in the entry or notice.

Appeal to minister

23 (1) Except as otherwise provided in this Act, a person who objects to the amount at which the person is assessed, or who considers that the person is not liable to taxation, may personally or by agent, appeal to the minister.

(2) An appeal to the minister must be made within 90 days after the date of the giving of the notice of assessment provided for in this Act, by serving a notice of an appeal to the minister by mailing it by registered mail addressed to the Commissioner of Income Tax, Victoria, British Columbia.

(3) The notice must

(a) state the name and address of the taxpayer, the amount of the tax and date of the notice of assessment, and

(b) set out clearly and fully the reasons for the appeal and the facts on which it is based.

(4) On receipt of the notice of appeal, the commissioner must place the notice before the minister, who must

(a) consider the notice and the information and documents on file in the office of the commissioner,

(b) affirm or amend the assessment that is appealed from, and

(c) notify the appellant of the decision.

Appeal to Supreme Court

24 (1) A decision of the minister under section 23 (4) may be appealed to the Supreme Court by way of a petition proceeding.

(2) The Supreme Court Civil Rules relating to petition proceedings apply to appeals under this section, but Rule 18-3 of those rules does not apply.

(3) A petition commencing an appeal must be filed in the court registry within 90 days after the date on the minister's notification of decision.

(4) Within 14 days after the filing of the petition under subsection (3), it must be served on the government in accordance with section 8 of the Crown Proceeding Act and the government must be designated "Her Majesty the Queen in right of the Province of British Columbia".

(4.1) An appeal under this section is a new hearing that is not limited to the evidence and issues that were before the minister.

(5) The court may

- (a) dismiss the appeal,
- (b) allow the appeal,
- (c) vary the decision from which the appeal is made, or
- (d) refer the decision back to the commissioner for reconsideration.

Appeal to Court of Appeal

25 An appeal lies from a decision of the Supreme Court to the Court of Appeal with leave of a justice of the Court of Appeal.

Irregularity in procedure

26 An assessment must not be varied or disallowed because of an irregularity, informality, omission or error on the part of any person in the observation of any directory provision up to the date of the issuing of the notice of assessment.

Due date of tax not affected by appeal

27 (1) The giving of a notice of appeal by a taxpayer or delay in the hearing of the appeal does not in any way

(a) affect the due date, the interest or penalties or any liability for payment provided by this Act in respect of tax that is the subject matter of the appeal, or

(b) delay the collection of the tax.

(2) If the tax is set aside or reduced on appeal, the minister must refund to the taxpayer the amount of the tax or excess tax paid by the taxpayer, and any additional interest or penalty imposed and paid on the tax or excess.

Tax to form a lien

28 (1) A tax imposed or assessed under this Act forms a lien and charge in favour of the government on the entire assets of the taxpayer or of the taxpayer's estate in the hands of any trustee, effective on the last day of the taxation year of the taxpayer for which the tax is imposed, and has priority over all other claims except claims secured by liens, charges or encumbrances registered before that date.

(2) Subject to section 17, the liens and charges created by this section and their priority are not lost or impaired by

- (a) any neglect, omission or error of the commissioner, or of any agent or officer,
- (b) the taking or failure to take proceedings to recover the taxes due,
- (c) the tender or acceptance of any partial payment of the taxes, or
- (d) want of registration.

Notice of proceedings for recovery of tax

29 (1) Before taking proceedings for the recovery of a tax under this Act, the commissioner must give notice to the taxpayer of the intention to enforce payment.

(2) Failure to give the notice under subsection (1) does not affect the validity of any proceedings taken for the recovery of a tax under this Act.

Recovery by action

30 The amount of tax due and payable may be recovered by action in any court as for a debt due to the government, and the court may make an order as to the costs of the action in favour of or against the government.

Filing of certificate having same effect as court judgment

31 (1) If default is made in the payment of a tax that is due and payable under this Act, or any part of the tax, the commissioner may issue a certificate stating that the tax was assessed, the amount of it remaining unpaid, including interest and penalties, and the name of the person by whom it is payable, and may file the certificate with any district registrar of the Supreme Court.

(2) On filing under subsection (1), the certificate is of the same effect, and all proceedings may be taken on it as if it were a judgment of the court against the person named in the certificate for the recovery of a debt of the amount stated in it.

Attachment of amounts payable to taxpayer

32 (1) If the commissioner has knowledge or suspects that a person is or is about to become indebted or liable to make a payment to a taxpayer, the commissioner may demand that the person pay the money otherwise payable to the taxpayer in whole or in part to the commissioner on account of the taxpayer's liability under this Act.

(2) Without limiting subsection (1), if the commissioner has knowledge or suspects that a person is about to advance money to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by a taxpayer, the commissioner may demand that the person pay to the

commissioner on account of the taxpayer's liability under this Act the money that would otherwise be advanced or paid.

(2.1) A demand under this section may be served by

- (a) personal service,
- (b) registered mail, or
- (c) electronic mail or fax.

(3) If under this section the commissioner demands that a person pay to the commissioner, on account of the liability under this Act of a taxpayer, money otherwise payable by that person to the taxpayer as interest, rent, remuneration, a dividend, an annuity or other periodic payment, the demand

- (a) applies to all of those payments to be made by the person to the taxpayer until the liability under this Act is satisfied, and
- (b) operates to require payments to the commissioner out of each payment of the amount specified by the commissioner in the demand.

(4) Money or a beneficial interest in money in a savings institution

- (a) on deposit to the credit of a taxpayer at the time a demand is served, or
- (b) deposited to the credit of a taxpayer after a demand is served

is money for which the savings institution is indebted to the taxpayer within the meaning of this section, but money on deposit or deposited to the credit of a taxpayer as described in paragraph (a) or (b) does not include money on deposit or deposited to the credit of a taxpayer in the taxpayer's capacity as a trustee.

(5) A demand under this section continues in effect until the earlier of

- (a) when the demand is satisfied, or
- (b) 90 days after the demand is served.

(6) As an exception to subsection (5), if a demand is made in respect of a periodic payment referred to in subsection (3), the demand continues in effect until it is satisfied unless no periodic payment is made or is liable to be made within 90 days after the demand is served, in which case the demand ceases to have effect on the expiration of that period.

(6.1) Money demanded from a person by the commissioner under this section becomes payable

- (a) as soon as the person is served with the demand, if the person is indebted or liable to make a payment to the taxpayer at the time the demand is served, or
- (b) as soon as the person becomes indebted or liable to make a payment to the taxpayer, in any other case.

(7) A person who fails to comply with a demand under subsection (1) or (3) is liable to pay to the government an amount equal to the amount that the person was required under the applicable subsection to pay to the commissioner.

(8) A person who fails to comply with a demand under subsection (2) is liable to pay to the government an amount equal to the lesser of

(a) the aggregate of the money advanced or paid, and

(b) the amount that the person was required under subsection (2) to pay to the commissioner.

(9) The receipt of the commissioner for money paid under this section is a good and sufficient discharge of the original liability to the extent of the payment.

(10) Money paid by any person to the commissioner in compliance with a demand under this section is deemed to have been paid by that person to the taxpayer.

(11) If a person carries on business under a name or style other than the person's own name, a demand under this section may be addressed to the name or style under which the person carries on business and, in the case of personal service, is validly served if it is left with an adult person employed at the place of business of the addressee.

(12) If persons carry on business in partnership, a demand under this section may be addressed to the partnership name and, in the case of personal service, is validly served if it is served on one of the partners or left with an adult person employed at the place of business of the partnership.

Seizure and sale of taxpayer's property for taxes

33 (1) The commissioner or the commissioner's agent may levy the amount of a tax that is due and payable, with costs, by distress of

(a) the goods and chattels of the person liable to pay the tax,

(b) goods and chattels in the person's possession, wherever they may be found in British Columbia, or

(c) goods and chattels found on the person's premises, the property of or in the possession of any other occupant of the premises, and that would be subject to distress for arrears of rent due to a landlord.

(2) The costs chargeable under subsection (1) are those payable as between landlord and tenant.

(3) If distress is made for the recovery of a tax, the commissioner or the commissioner's agent must, by advertisement posted up in at least 3 conspicuous public places in the locality where the sale of the property distrained is to be made, give at least 10 days' public notice of the time and place of the sale and of the name of the taxpayer whose property is to be sold.

(4) At the time named in the notice the commissioner or agent must sell at public auction the property distrained, or as much of it as may be necessary.

(5) If the property distrained is sold for more than the amount of the tax and costs, the surplus must be paid over to the person in whose possession the property was when the distress was made, and the person's receipt must be taken for it unless a claim to the surplus is made by another person on the ground that the property sold belonged to this other person, or that this other person is entitled to the surplus by lien or other right.

(6) If a claim is made by the person for whose taxes the property was distrained, and the claim is admitted, the surplus must be paid to the claimant, and the claimant's receipt must be taken for it.

(7) If a claim is contested, the surplus must be retained by the commissioner until the respective rights of the parties have been determined.

More than one power for recovery may be exercised

34 (1) The powers conferred by this Act for the recovery of taxes by action in court, by filing a certificate, by distress and by demand under section 32 may be exercised separately, or concurrently, or cumulatively.

(2) The liability of a person for the payment of a tax under this Act is not affected in any way by the fact that a fine or penalty has been imposed on or paid by the person in respect of a contravention of this Act.

Limitation period

34.1 (1) In this section, "proceeding" means

- (a) an action for the recovery of taxes,
- (b) the filing of a certificate,
- (c) the making of a demand, and
- (d) the registration or enforcement of a lien

under this Act.

(2) A proceeding may be commenced at any time within 7 years after the date of an assessment or re-assessment of the amount claimed in the proceeding.

(3) Despite subsection (2), a proceeding that relates to a contravention of this Act or the regulations and that involves wilful default or fraud may be commenced at any time.

Tax evasion

35 A person must not do any of the following:

- (a) make or participate in or acquiesce in the making of false or deceptive statements in a return, certificate or statement made as required under this Act;
- (b) evade the payment of tax by destroying, altering, mutilating or hiding or otherwise disposing of the records of a taxpayer;
- (c) make or acquiesce in the making of a false or deceptive entry or omit or acquiesce in the omission of entering, a material particular in the records of a taxpayer;

- (d) wilfully in any manner evade or attempt to evade the payment of tax;
- (e) conspire with another person to do anything referred to in paragraphs (a) to (d).

Penalties

36 (1) A taxpayer who fails to deliver a return under section 6 (1) or (2) within the time prescribed must pay a penalty of an amount equal to 10% of the tax payable by the taxpayer that was unpaid when the return was required to be delivered.

(2) A taxpayer who fails to complete the information required on the return to be delivered under section 6 (1) or (2) must pay a penalty of an amount equal to 1% of the tax payable by the taxpayer but the penalty must not be less than \$20 or more than \$100.

(3) A person who fails to deliver a return under section 7 within the time prescribed is liable to a penalty of \$10 for each day during which the default continues.

Offences

37 (1) A person who fails to comply with section 4 or 5 commits an offence and is liable on conviction to a penalty of not less than \$10 nor more than \$200.

(2) A person who fails to comply with section 8, 10, 12, 13, 16 or 17 commits an offence and is liable on conviction to a fine of not less than \$10 for each day the failure to comply continues.

(3) A person who contravenes section 14 commits an offence and is liable on conviction to a fine of up to \$2 000.

(4) A person who contravenes section 35 commits an offence and is liable on conviction

(a) to a fine of not less than \$200 and not more than \$10 000 and double the amount of tax that the taxpayer failed to pay, attempted to evade or conspired to evade,

(b) to imprisonment for not more than 2 years, or

(c) to both fine and imprisonment.

(5) If a corporation is guilty of an offence under this Act, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced or participated in the commission of the offence is a party to and guilty of the offence.

(6) All fines recovered under this Act must be paid to the minister, and form part of the consolidated revenue fund.

Laying of information and hearings

38 (1) An information or complaint under this Act may be laid or made by a person authorized by the minister.

(2) An information or complaint for contravening this Act may be for one or more offences, and no information, complaint, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to 2 or more offences.

(3) An information in respect of an offence against this Act must be laid within 6 years from the time when the matter of the information arose.

Method of providing notices and demands

39 (1) A notice, other than a notice of assessment, or a demand that the minister, the commissioner or an officer is authorized or required to give to or make to or on a person under this Act must be in writing directed to the person.

(1.1) A demand under section 32 is sufficiently made if it is delivered as set out in subsection (2) of this section or is sent by electronic mail or fax to the electronic mail address or fax number stated in the person's last return or to the last electronic mail address or fax number known to the commissioner.

(2) A notice or demand referred to in subsection (1) is sufficiently given or made if it is

(a) delivered to the person personally, or

(b) delivered at, mailed or sent by registered mail addressed to the person's address as stated in the person's last return made under this Act or as last known to the commissioner.

(3) Proof of the receipt by a person of a notice or demand referred to in subsection (1) may be established in any court by showing that the notice or demand was delivered or mailed in a manner provided in subsection (2), and the burden of proof is on the person seeking to establish the fact that the notice or demand was not received by that person.

(4) For a prosecution or an action or proceedings in respect of any matter arising under this Act, the facts necessary to establish any of the following may be sufficiently proved in any court by the production of an affidavit of the commissioner or other officer of the ministry setting out the facts:

(a) the giving of notice or the making of a demand;

(b) compliance on the part of the commissioner or other officer with this Act;

(c) the failure of a person to comply with this Act.

Appointments

40 (1) This Act is to be administered by the Commissioner of Income Tax or another person designated by the minister.

(2) Other officers and employees considered necessary for the administration of this Act may be appointed under the Public Service Act.

Delegation

41 (1) The commissioner may, in writing, delegate any of the commissioner's powers or duties under this Act.

(2) A delegation under subsection (1) may be to a named person or to a class of persons.

Power to make regulations

42 The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

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