

This Act is current to 30 November 2016

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

CARBON TAX ACT

[SBC 2008] CHAPTER 40

Assented to May 29, 2008

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Part 1 — Interpretation

Definitions

1 (1) In this Act:

"assessment" includes reassessment;

"biomethane" means methane produced from biomass;

"biomethane credit" means a credit provided under section 14.1;

"board member" means a member of a board of directors of a corporation and includes a person who is deemed to be a board member under section 50;

"buy" includes to obtain ownership by barter or exchange;

"collector" means a person who is appointed as a collector under section 16 (1);

"combustible" means an item or material set out in column 2 of the Table in Schedule 2;

"common carrier" means a person who is in the business of transporting goods for members of the public;

"deputy collector" means a person who is deemed appointed as a deputy collector under section 17;

"director" means a person appointed by the minister to administer this Act;

"farmer" has the same meaning as in section 1 of the Motor Fuel Tax Act;

"fuel" means a substance set out in column 2 of the Table in Schedule 1 but does not include

- (a) methanol produced from biomass, and
- (b) subject to section 13.1, biomethane;

"IFTA commercial vehicle" has the prescribed meaning;

"litre" means,

- (a) with respect to fuel in liquid form, one cubic decimetre, or
- (b) with respect to fuel in the form of liquefied petroleum gas, 0.5 kg;

"manufacture" includes the production, refining or compounding of fuel;

"month" means a calendar month;

"motive fuel user permit" means a motive fuel user permit issued under the Motor Fuel Tax Act;

"motor vehicle" means a vehicle that is designed to be self propelled on land;

"natural gas" means natural gas as defined in section 1 (1) of Schedule 1;

"person" includes the government of Canada;

"purchaser" means a person who, within British Columbia, buys or receives delivery of fuel

- (a) for the person's own use or for use by another person at the first person's expense, or
- (b) on behalf of or as an agent for a principal for use by the principal or by other persons at the expense of the principal;

"refiner collector" means a person who is appointed as a refiner collector under section 16 (2.1);

"registered air service" means a person who holds a registered air service certificate;

"registered air service certificate" means a registered air service certificate issued under section 21;

"registered consumer" means a person who holds a registered consumer certificate;

"registered consumer certificate" means a registered consumer certificate issued under section 20;

"registered marine service" means a person who holds a registered marine service certificate;

"registered marine service certificate" means a registered marine service certificate issued under section 21;

"registration certificate" means a registration certificate issued under section 19;

"retail dealer", subject to section 1.1, means a person who, within British Columbia, sells fuel to a purchaser;

"scheduled rate change" means a modification in a rate of tax set out in the Table in Schedule 1 that comes into effect as of July 1 of a year;

"security" includes all penalties and interest that are or may be added to security under this Act;

"sell" includes to transfer ownership by barter or exchange;

"ship" includes any vessel that is designed to be self propelled in or on water;

"tax", in relation to tax under this Act, includes all penalties and interest that are or may be added to that tax, and, except in section 45, includes

(a) an amount a person must pay to the government under section 53 (2), and

(b) an amount for which a person is personally liable to the government under section 65 (4);

"use" includes flaring and incineration of natural gas or refinery gas, and a prescribed type of activity in circumstances, if any, that are prescribed;

"vendor", subject to section 1.1, means a person who, within British Columbia, sells fuel for the first time after

(a) its manufacture in British Columbia, or

(b) its importation into British Columbia;

"wholesale dealer", subject to section 1.1, means a person who, within British Columbia, buys fuel for resale to a person other than a purchaser.

(2) [Repealed 2015-8-1.]

Fuel imported by ship

1.1 (1) In this section:

"imported fuel" means fuel, other than natural gas, that, as part or all of a single shipment, has entered British Columbia from outside of Canada in compliance with the Customs Act (Canada) and the regulations under that Act;

"release" has the same meaning as in the Customs Act (Canada);

"shipment" means fuel that is cargo

(a) in a single ship on a single trip,

(b) on a single barge towed or pushed by one or more ships on a single trip, or

(c) on 2 or more physically connected barges towed or pushed by one or more ships on a single trip, if all the fuel on the barges is owned by the same person.

(2) Subject to subsections (3) and (4) and the regulations, all of the following apply to a sale of imported fuel that occurs either before the imported fuel is released or after the imported fuel is

released but before or at the time the imported fuel is removed from the ship or barge on which it entered British Columbia:

- (a) the seller is not a retail dealer, even if the imported fuel is sold to a purchaser;
 - (b) the seller is not a vendor;
 - (c) the buyer is not a wholesale dealer, even if the buyer buys the imported fuel for resale to a person other than a purchaser.
- (3) Subsection (2) (a) to (c) does not apply to a sale of imported fuel
- (a) from a single shipment if
 - (i) the imported fuel is a prescribed type of fuel or a prescribed subcategory of a type of fuel or is in a prescribed class of fuel, and
 - (ii) the amount of the imported fuel sold in that sale from that shipment is less than the amount prescribed for that prescribed type of fuel, prescribed subcategory of a type of fuel or prescribed class of fuel, or
 - (b) in prescribed circumstances.
- (4) If
- (a) imported fuel is sold either before the imported fuel is released or after the imported fuel is released but before or at the time the imported fuel is removed from the ship or barge on which it entered British Columbia, and
 - (b) subsection (2) (a) to (c) does not, under subsection (3) or the regulations, apply to the sale, subsection (2) does not apply to any subsequent sale of that fuel.
- (5) A person who, within British Columbia, sells imported fuel for the first time in a sale to which subsection (2) (a) to (c) does not apply is the vendor of that fuel.

Liability of other persons

1.2 (1) If more than one person is subject to tax under the same provision of this Act in respect of the same fuel, each person is jointly and severally liable for the tax.

(2) If more than one person is required under the same provision of this Act to pay security to the government in respect of the same fuel, each person is jointly and severally liable to pay the security.

Part 2 — Plans and Reports Respecting the Carbon Tax

Interpretation

2 (1) In this Part:

"adjustment amount" means the dollar amount by which

(a) the estimated or, if known, actual amount of carbon tax collected in a fiscal year exceeds

(b) the estimated dollar amount of the reduction in Provincial revenues, as a result of revenue measures, in the same fiscal year;

"adjustment measures" means measures or portions of measures designated by the minister to offset an adjustment amount by reducing Provincial revenues through one or more of the following:

(a) granting a non-carbon tax exemption or reducing or eliminating a non-carbon tax or a fee or charge imposed under an Act other than this Act;

(b) continuing for more than one fiscal year a non-carbon tax exemption granted, or the reduction or elimination of a non-carbon tax or a fee or charge imposed under an Act other than this Act;

(c) granting or increasing a non-carbon tax credit, or continuing for more than one fiscal year a non-carbon tax credit or the increasing of a non-carbon tax credit;

"carbon tax" means the tax imposed under this Act;

"carbon tax plan" means the carbon tax plan referred to in section 3 (1) (a) (i);

"minister" means the Minister of Finance;

"non-carbon tax" means a tax, including penalties and interest, that is collected by or for the government, other than the carbon tax;

"non-carbon tax credit" includes an amount that under an enactment is deemed to be a payment or overpayment of non-carbon taxes;

"Provincial revenues" means revenues collected by or for the government that are derived from the payment of a non-carbon tax or a fee or charge imposed under an Act other than this Act;

"report" means the report referred to in section 3 (1) (a) (ii);

"revenue measures" means measures or portions of measures designated by the minister to reduce Provincial revenues through one or more of the following:

- (a) granting a non-carbon tax exemption or reducing or eliminating a non-carbon tax or a fee or charge imposed under an Act other than this Act;
- (b) continuing for more than one fiscal year a non-carbon tax exemption granted, or the reduction or elimination of a non-carbon tax or fee or charge imposed, under an Act other than this Act;
- (c) granting or increasing a non-carbon tax credit, or continuing for more than one fiscal year a non-carbon tax credit or the increasing of a non-carbon tax credit,

but does not include adjustment measures.

(2) In this Part, the carbon tax is revenue neutral if the dollar amount of the carbon tax collected in a fiscal year is less than or equal to the estimated dollar amount of the reduction in Provincial revenues in the same fiscal year as a result of revenue measures.

Preparation of plans and report

3 (1) The minister

- (a) must annually prepare
 - (i) a carbon tax plan that meets the requirements set out in subsection (2), and
 - (ii) a report that meets the requirements set out in subsection (3),
- (b) must, if a report includes an adjustment amount in the earlier fiscal year of the report, prepare an adjustment amount plan that meets the requirements set out in subsection (4) (a) to (d), and
- (c) may, if a report includes an adjustment amount in the more recent fiscal year of a report, prepare an adjustment amount plan that includes the matters referred in subsection (4) (e).

(2) A carbon tax plan must

- (a) cover a 3 year period beginning at the start of the fiscal year following the fiscal year in which the carbon tax plan is presented to the Legislative Assembly under section 4,
- (b) set out the following for each fiscal year of the plan:
 - (i) a forecast of the carbon tax revenues to be collected;
 - (ii) the revenue measures that the minister proposes be implemented;

(iii) a forecast of the reduction in the Provincial revenues as a result of the revenue measures referred to in subparagraph (ii), and

(c) forecast that the carbon tax will be revenue neutral in relation to each fiscal year of the carbon tax plan.

(3) A report must

(a) cover a 2 year period that ends at the beginning of the first fiscal year of the carbon tax plan presented to the Legislative Assembly under section 4 at the same time as the report, and

(b) set out the following for each fiscal year of the report:

(i) the estimated or, if known, actual carbon tax revenues collected;

(ii) the estimated reduction in Provincial revenues as a result of the revenue measures that were implemented;

(iii) the adjustment amount, if any.

(4) An adjustment amount plan

(a) must cover the period beginning on the date that the report that includes an adjustment amount is presented to the Legislative Assembly and ending on the last date of the carbon tax plan that is presented to the Legislative Assembly at the same time as the adjustment amount plan,

(b) must include the following with respect to an adjustment amount in the earlier fiscal year of the report:

(i) adjustment measures that the minister proposes be implemented at any time during the period of the adjustment amount plan to offset the adjustment amount;

(ii) a forecast of the reduction of Provincial revenues as a result of the adjustment measures referred to in subparagraph (i),

(c) must include, if the adjustment amount plan of the prior fiscal year included adjustment measures, a revised forecast of the reduction of Provincial revenues as a result of those adjustment measures,

(d) if there is an adjustment amount in the earlier fiscal year of the report, must forecast that the adjustment amount will be offset by a reduction in Provincial revenues resulting from the sum of

(i) the adjustment measures that are proposed for that same fiscal year in the adjustment amount plan, and

(ii) the adjustment measures that were proposed for that same fiscal year in the adjustment amount plan, if any, of the prior fiscal year, and

(e) may include the following with respect to an adjustment amount in the more recent fiscal year of the report:

(i) adjustment measures that the minister proposes be implemented at any time during the period of the adjustment amount plan to offset the adjustment amount;

(ii) a forecast of the reduction of Provincial revenues as a result of the adjustment measures referred to in subparagraph (i).

Plans and report presented to the Legislative Assembly

4 At the same time that the main estimates for a fiscal year are presented to the Legislative Assembly, the minister

(a) must also present the following to the Legislative Assembly:

(i) the carbon tax plan for the fiscal year for which the main estimates are presented and the 2 subsequent fiscal years;

(ii) the report for the 2 fiscal years preceding the first year of the carbon tax plan;

(iii) if the report referred to in subparagraph (ii) includes an adjustment amount in the earlier fiscal year of the report, an adjustment amount plan that includes the information referred to in section 3 (4) (b) to (d);

(iv) a statement of all material assumptions and policy decisions underlying the preparation of the report, the plans referred to in subparagraphs (i) and (iii), and an adjustment amount plan referred to in paragraph (b) if that adjustment amount plan is presented to the Legislative Assembly;

(v) a statement, signed by the secretary to Treasury Board, that the requirements referred to in section 3 and the disclosure requirements referred to in subparagraph (iv) of this paragraph have been met, or explaining how those requirements have not been met, and

(b) if the report referred to in paragraph (a) (ii) includes an adjustment amount in the more recent fiscal year of the report, may present to the Legislative Assembly an adjustment amount plan that includes the information referred to in section 3 (4) (e).

Failure to introduce legislation

5 (1) In this section, "specified period" means the period starting on the date an adjustment amount plan is presented to the Legislative Assembly under section 4 (a) (iii) and ending on the last day of the following fiscal year.

(2) The salary payable to the minister for the fiscal year in which a carbon tax plan and report are presented to the Legislative Assembly is deemed to be reduced in accordance with subsection (3) (a) or (b), whichever is applicable, if legislation for the purpose of implementing

(a) the revenue measures proposed for the first year of the carbon tax plan, and

(b) the adjustment measures proposed for the specified period of the adjustment amount plan to offset the adjustment amount, if there is an adjustment amount in the earlier year of the report,

is reasonably necessary but is not introduced into the Legislative Assembly within 120 days of the date that the carbon tax plan and report are presented to the Legislative Assembly.

(3) If the minister who presented a carbon tax plan and report to the Legislative Assembly is the minister

(a) for the whole of the fiscal year during which that plan and report are presented to the Legislative Assembly, the salary of the minister that is otherwise payable under section 4 of the Members' Remuneration and Pensions Act in that fiscal year is deemed to be reduced by 15%, and

(b) for only part of the fiscal year during which that plan and report are presented to the Legislative Assembly, the salary of the minister that is otherwise payable under section 4 of the Members' Remuneration and Pensions Act is deemed to be reduced by the product of the following:

minister's salary payable in that fiscal year under

section 4 of Members' Remuneration and Pensions Act $\times .15 \times$ days as minister

365

(4) The minister must repay the amount of the deemed salary reduction resulting from the operation of this section on or before the 150th day after the date that the minister is required to present the carbon tax plan and report to the Legislative Assembly.

Legal proceedings

6 No action or other proceeding may be brought in respect of an obligation established under this Part, other than an action brought by the government to enforce the obligation of the minister under section 5 (4).

Plans and reports for the 2008-09, 2009-10 fiscal years

7 (1) The plan called the "Revenue Neutral Carbon Tax Plan" presented to the Legislative Assembly with the main estimates on February 19, 2008 is deemed to be a carbon tax plan presented to the Legislative Assembly under section 4 for the purposes of the reports presented to the Legislative Assembly in the 2008-2009 and 2009-2010 fiscal years.

(2) Despite sections 3 and 4,

(a) the report that is prepared and presented to the Legislative Assembly under those sections in the 2008-2009 fiscal year, although it relates to a carbon tax plan for only the 2008-2009 fiscal year, is a report under those sections, and

(b) the fiscal year to which the report referred to in paragraph (a) applies is deemed to be the more recent fiscal year of the report for the purposes of section 3.

Part 3 — Imposition of Tax and Setting the Rate of Tax

Imposition of tax on purchase of fuel

8 (1) Subject to this section and the regulations, a purchaser of a fuel must pay to the government, at the time of purchase, tax on the fuel at the rate for that type of fuel set out in the column of the Table in Schedule 1 that applies for the period of time in which the fuel is purchased.

(2) If a scheduled rate change for a fuel takes effect between the time a purchaser buys the fuel and the time the purchaser receives delivery of the fuel, the purchaser must pay to the government tax on the fuel at the rate for that type of fuel set out in the column of the Table in Schedule 1 that applies for the period of time in which the purchaser receives delivery.

(3) [Repealed 2012-8-10.]

(4) This section does not apply to a purchaser who is a registered consumer with respect to the type or subcategory of a type of fuel specified on that person's registered consumer certificate.

(5) A registered air service or registered marine service who purchases the type or subcategory of a type of fuel specified on that person's registered air or marine service certificate must pay the tax under subsection (1) at the prescribed time and in the prescribed manner.

(6) A purchaser of a fuel in a sale to which section 1.1 (2) (a) to (c) applies must pay the tax under subsection (1) of this section at the prescribed time and in the prescribed manner.

Imposition of tax on fuel used for new purpose

8.1 (1) If a purchaser

(a) purchased fuel that was exempt from tax imposed under section 8 because the fuel was to be used for a particular purpose, and

(b) subsequently uses that fuel, or allows that fuel to be used, for a purpose other than

(i) the particular purpose, or

(ii) another purpose for which that fuel would be exempt from tax imposed under section 8 if that fuel were to be used for that purpose,

the purchaser must pay to the government tax on that fuel at the rate for that type of fuel set out in the column of the Table in Schedule 1 that applies for the period of time in which that fuel is used.

(2) Tax payable under subsection (1) must be paid at the prescribed time and in the prescribed manner.

Imposition of tax on transfer of fuel

9 (1) Subject to this section, a person who is not a purchaser of a fuel but who, within British Columbia, transfers the fuel into the receptacle that supplies the turbine or other engine of

(a) a ship,

(b) any rolling stock or other vehicle run on rails, or

(c) an aircraft

must pay to the government, at the prescribed time and in the prescribed manner, tax on the fuel at the rate for that type of fuel set out in the column of the Table in Schedule 1 that applies for the period of time in which the fuel is transferred.

(2) Subsection (1) applies to a person only if the person transfers the fuel

(a) for the person's own use or for use by another person at the first person's expense, or

(b) on behalf of or as an agent for a principal for use by the principal or by another person at the expense of the principal.

(3) Subsection (1) does not apply to a person who is a registered consumer with respect to the type or subcategory of a type of fuel specified on that person's registered consumer certificate.

(4) A registered air service or registered marine service who transfers the type or subcategory of a type of fuel specified on that person's registered air or marine service certificate must pay the tax under subsection (1) at the prescribed time and in the prescribed manner.

Imposition of tax on fuel brought into British Columbia

10 (1) Subject to this section, a person who

(a) resides, ordinarily resides or carries on business in British Columbia or enters British Columbia with the intention of residing or carrying on business in British Columbia, and

(b) brings or sends into British Columbia fuel in the supply tank or a supplemental supply tank of a motor vehicle, aircraft or ship

must pay to the government, at the prescribed time and in the prescribed manner, tax on the fuel at the rate for that type of fuel set out in the column of the Table in Schedule 1 that applies for the period of time in which the fuel is brought into British Columbia.

(2) Subsection (1) applies to a person only if the person brings or sends into British Columbia the fuel

(a) for the person's own use or for use by another person at the first person's expense, or

(b) on behalf of or as an agent for a principal for use by the principal or by another person at the expense of the principal.

(3) For the purposes of subsection (1), a person is deemed to be carrying on business in British Columbia if

(a) the person's name, or any name under which the person carries on business, is listed in a telephone directory

(i) for any part of British Columbia, and

(ii) in which an address or telephone number in British Columbia is given for the person,

(b) the person's name, or any name under which the person carries on business, appears or is announced in any advertisement in which an address or telephone number in British Columbia is given for the person,

(c) the person has, in British Columbia,

(i) employees or other representatives, or

(ii) a warehouse, office or place of business, or

(d) the person routinely loads or unloads passengers, cargo or both in British Columbia.

(4) Subsection (1) does not apply to a person who is a registered consumer with respect to the type or subcategory of a type of fuel specified on that person's registered consumer certificate.

(5) In the case of an IFTA commercial vehicle to which this Act applies, this section does not apply to fuel in the supply tank or a supplemental supply tank of the IFTA commercial vehicle if a deposit has been paid in accordance with the regulations in respect of tax payable on that fuel under this Act.

(6) A registered air service or registered marine service who brings or sends into British Columbia the type or subcategory of a type of fuel specified on that person's registered air or marine service certificate must pay the tax under subsection (1) at the prescribed time and in the prescribed manner.

Imposition of tax on use of fuel

11 A person who, within British Columbia, uses a fuel on which tax is not otherwise payable under sections 8, 9 and 10 must pay to the government, at the prescribed time and in the prescribed manner, tax on the fuel at the rate for that type of fuel set out in the column of the Table in Schedule 1 that applies for the period of time in which the fuel is used.

Imposition of tax on combustible

12 A person who, within British Columbia, burns a combustible to produce energy or heat must pay to the government, at the prescribed time and in the prescribed manner, tax on the combustible at the rate for that type of combustible set out in the column of the Table in Schedule 2 that applies for the period of time in which the combustible is burned.

Calculation of tax for blends or mixtures

13 (1) If a mixture or blend is composed of one or both of the following combinations:

(a) one or more fuels, with or without one or more non-taxable substances or items;

(b) one or more combustibles, with or without one or more non-taxable substances or items,

the amount of tax payable for a fuel or combustible in the mixture or blend is to be determined by multiplying the rate of tax determined under the applicable provision of this Act by the amount of that fuel or combustible in the mixture or blend.

(2) Subsection (1) does not apply to a prescribed fuel, combustible, substance or item or in prescribed circumstances.

(3) Subject to subsection (4), if a mixture or blend includes a prescribed fuel, combustible, substance or item referred to in subsection (2), the amount of tax payable on the mixture or blend is the amount determined in accordance with the regulations.

(4) If a substance or item is not taxable under this Act, the regulations may deem the substance or item to be taxable at a prescribed rate if the substance or item is included in a mixture or blend but comprises less than the prescribed percentage of the mixture or blend.

Calculation of tax for certain biomethane blends or mixtures

13.1 (1) If a mixture or blend contains a combined amount of a fuel and biomethane and the proportions of the fuel and biomethane in the combined amount cannot be determined,

(a) for the purpose of applying this Act and the regulations under this Act, the biomethane is deemed to be fuel of the same type or subcategory of a type of fuel as the fuel, and

(b) the total amount of tax payable for the fuel and the biomethane is to be determined by multiplying the rate of tax for the fuel under this Act by the combined amount of the fuel and the biomethane.

(2) If a mixture or blend contains a combined amount of natural gas, another fuel and biomethane, and the proportions of natural gas, the other fuel and biomethane in the combined amount cannot be determined,

(a) for the purpose of applying this Act and the regulations under this Act, the other fuel and the biomethane are deemed to be natural gas, and

(b) the total amount of tax payable for the natural gas, the other fuel and the biomethane is to be determined by multiplying the rate of tax for natural gas under this Act by the combined amount of the natural gas, the other fuel and the biomethane.

Part 4 — Exemptions and Credits

Division 1 — Exemptions

Exemptions from tax

14 (1) In this section, "non-commercial aircraft or ship" means an aircraft or ship used solely for personal use.

(2) In addition to exemptions established by regulation, the following are exempt from tax under this Act:

(a) fuel that is brought into British Columbia in the supply tank or a supplemental supply tank of a non-commercial aircraft or ship, if the fuel in the supply tank or supplemental supply tank is to be used in the operation of the aircraft or ship;

(b) up to and including 182 litres of fuel that is brought into British Columbia in the supply tank or a supplemental supply tank of a motor vehicle, other than an IFTA commercial vehicle or a locomotive, if the fuel in the supply tank or supplemental supply tank is to be used in the operation of the motor vehicle;

(c) fuel that is purchased in British Columbia for use outside of British Columbia and is to be removed from British Columbia by the following persons:

(i) if section 1.1 (2) (a) to (c) does not apply to the sale,

(A) the retail dealer who sold the fuel, or

(B) a person acting on behalf of the retail dealer who sold the fuel;

(ii) if section 1.1 (2) (a) to (c) applies to the sale,

(A) the seller who sold the fuel, or

(B) a person acting on behalf of the seller who sold the fuel;

(iii) if the purchaser of the fuel or a person acting on behalf of the purchaser has at the time of the purchase entered into a contract with a common carrier for the removal of the fuel from British Columbia,

(A) the purchaser, or

(B) the person acting on behalf of the purchaser;

(d) fuel that is purchased in British Columbia for use outside of British Columbia and is to be removed from British Columbia in prescribed circumstances;

(e) fuel for use in the operation of an IFTA commercial vehicle by a licensed carrier, as defined in the Motor Fuel Tax Act;

(f) fuel that is used by a registered consumer for interjurisdictional air or marine travel or transport in the prescribed circumstances and in accordance with the prescribed rules;

(g) subject to the regulations, fuel that is purchased by a farmer for use for a prescribed purpose and that

(i) is a prescribed type of fuel,

(ii) is a prescribed subcategory of a type of fuel, or

(iii) is in a prescribed class of a type of fuel or of a subcategory of a type of fuel.

Division 2 — Biomethane Credit

Biomethane credit

14.1 Subject to the regulations, a retail dealer of natural gas, on behalf of the government, must provide a credit to a purchaser at the prescribed time and in an amount determined in the prescribed manner.

Refund to retail dealer of natural gas

14.2 If the director is satisfied that

- (a) a retail dealer of natural gas has provided a biomethane credit to a purchaser in respect of a sale,
- (b) the retail dealer has remitted to the government the amount of tax payable in respect of the sale, without deduction for the biomethane credit, and
- (c) the purchaser was entitled to receive the biomethane credit,

the director, subject to the regulations, must pay from the consolidated revenue fund to the retail dealer a refund of a portion of the tax remitted by the retail dealer in respect of the sale in an amount determined in the prescribed manner.

Recovery of amount by retail dealer of natural gas

14.3 If a retail dealer of natural gas

- (a) provides a credit to a person in respect of a sale as if it were a biomethane credit, and
- (b) does not receive a refund under section 14.2 because the person was not entitled to receive a biomethane credit in respect of the sale,

the retail dealer may by action in a court recover from the person the amount credited.

Part 5 — Collection of Tax and Security

Division 1 — Appointments and Certificates

Vendor selling fuel

15 (1) A vendor must not sell, within British Columbia, a fuel unless the vendor is appointed a collector for that type or subcategory of a type of fuel.

(2) This section does not apply to the sale of natural gas.

Appointment of vendor as collector

16 (1) Subject to subsection (2), and on receipt of an application in the form specified by the director, the director may, if the director considers that the applicant is suitable,

- (a) appoint a vendor to be a collector for a type or subcategory of a type of fuel, and
 - (b) make the appointment subject to any other conditions and limitations specified by the director.
- (2) Before an applicant is appointed as a collector, the applicant must enter into an agreement with the director, on behalf of the government, setting out the duties to be performed by the applicant when acting as a collector and any other matters the director considers necessary or advisable.

(2.1) On receipt of an application in the form specified by the director, the director may

(a) appoint a collector to be a refiner collector with respect to the same type or subcategory of a type of fuel as the collector is appointed under subsection (1) (a), if

- (i) the director considers the applicant suitable, and
- (ii) the collector or one or more interrelated entities of the collector, individually or collectively, own and operate a crude oil refinery in Canada, and

(b) make the refiner collector appointment subject to any conditions and limitations specified by the director.

(2.11) Before the director makes an appointment under subsection (1) or (2.1), the director may require the applicant to deposit a bond under section 59 by the date specified by the director.

(2.12) The director may refuse to make an appointment under subsection (1) or (2.1) if the applicant has failed to deposit a bond required under section 59 by the date specified by the director under subsection (2.11) of this section.

(2.2) In this section, "interrelated entity", in relation to a collector, means a corporation, partnership, trust, joint venture or other incorporated or unincorporated entity that the director considers to be interrelated with the collector for the purpose of this section.

(2.3) Subject to subsection (2.4), the director may make an appointment under subsection (1) or (2.1) effective on an earlier date that is on or after the first day of the month in which the vendor's first sale of a type or subcategory of a type of fuel in British Columbia after its manufacture in British Columbia or its importation into British Columbia, and if the appointment is made effective on an earlier date the vendor is deemed to have been appointed a collector or refiner collector on the specified date.

(2.4) An appointment may not be made effective on a date that is earlier than 4 years before the director makes the appointment under subsection (1) or (2.1).

(3) to (6) [Repealed 2008-40-156.]

Appointment of deputy collector

17 (1) If a wholesale dealer buys fuel

(a) from a collector, the wholesale dealer is deemed, with respect to that fuel, to have been appointed a deputy collector by the collector, or

(b) from a deputy collector, the wholesale dealer is deemed, with respect to that fuel, to have been appointed a deputy collector by the deputy collector

from whom the wholesale dealer bought that fuel.

(2) Subsection (1) does not apply to a wholesale dealer who is appointed a collector and who buys fuel from another collector in a sale described in section 30 (3).

(3) A person who is a deputy collector must comply with the obligations of a deputy collector imposed by this Act even if the person is also a collector or a registered consumer with respect to other fuel.

(4) If a wholesale dealer buys fuel from a vendor whose appointment as a collector for the fuel is effective in accordance with section 16 (2.3), the appointment of the wholesale dealer as a deputy collector under subsection (1) (a) of this section is deemed to have been made at the time the wholesale dealer bought that fuel.

(5) If a wholesale dealer buys fuel from a deputy collector whose appointment as a deputy collector under subsection (1) (a) is effective in accordance with subsection (4), the appointment of the wholesale dealer as a deputy collector under subsection (1) (b) is deemed to have been made at the time the wholesale dealer bought the fuel.

Sale of natural gas

18 A person must not sell, within British Columbia, natural gas to a purchaser unless the person is a retail dealer who holds a registration certificate.

Issue of registration certificate to retail dealer

19 (1) On receipt of an application in the form specified by the director, the director may, if the director considers that the applicant is suitable,

(a) issue a registration certificate to a retail dealer authorizing the retail dealer to sell natural gas, and

(b) make the registration certificate subject to any other conditions and limitations specified by the director.

(2) The director may require that before a registration certificate is issued under subsection (1), the applicant enter into an agreement with the director, on behalf of the government, setting out the duties to be performed by the applicant when acting as a retail dealer of natural gas and any other matters the director considers necessary or advisable.

(3) to (6) [Repealed 2008-40-156.]

(7) Before the director issues a registration certificate under subsection (1), the director may require the applicant to deposit a bond under section 59 by the date specified by the director.

(8) The director may refuse to issue a registration certificate under subsection (1) if the applicant has failed to deposit a bond required under section 59 by the date specified by the director under subsection (7) of this section.

Issue of registered consumer certificate

20 (1) Subject to subsection (2) and on receipt of an application in the form specified by the director, the director may

(a) issue a registered consumer certificate for a type or subcategory of a type of fuel specified by the director, to an applicant who

(i) the director considers suitable,

(ii) is included in a prescribed category of persons, and

(iii) meets the prescribed conditions and requirements, if any, and

(b) make the registered consumer certificate subject to any other conditions and limitations specified by the director.

(2) Before an applicant is issued a registered consumer certificate, the applicant must enter into an agreement with the director, on behalf of the government, setting out the duties to be performed by the applicant when acting as a registered consumer and any other matters the director considers necessary or advisable.

(3) to (6) [Repealed 2008-40-156.]

(7) Before the director issues a registered consumer certificate under subsection (1), the director may require the applicant to deposit a bond under section 59 by the date specified by the director.

(8) The director may refuse to issue a registered consumer certificate under subsection (1) if the applicant has failed to deposit a bond required under section 59 by the date specified by the director under subsection (7) of this section.

Issue of registered air or marine service certificate

21 (1) Subject to subsection (2) and on receipt of an application in the form specified by the director, the director may

(a) issue a registered air service certificate or registered marine service certificate, for a type or subcategory of a type of fuel specified by the director, to an applicant who

(i) the director considers is suitable,

(ii) is included in a prescribed category of persons, and

(iii) meets the prescribed conditions and requirements, if any, and

(b) make the registered air service or marine service certificate subject to any other conditions and limitations specified by the director.

(2) Before an applicant is issued a registered air service certificate or registered marine service certificate, the applicant must enter into an agreement with the director, on behalf of the government, setting out the duties to be performed by the applicant when acting as a registered air service or a registered marine service and any other matters the director considers necessary or advisable.

(3) Before the director issues a registered air service certificate or registered marine service certificate under subsection (1), the director may require the applicant to deposit a bond under section 59 by the date specified by the director.

(4) The director may refuse to issue a registered air service certificate or registered marine service certificate under subsection (1) if the applicant has failed to deposit a bond required under section 59 by the date specified by the director under subsection (3) of this section.

Limitation respecting type of fuel

22 The director may limit the application of a collector's appointment, a registered consumer certificate or a registered air service or marine service certificate to a subcategory of a type of fuel, if the subcategory is prescribed under this Act.

Suspension or cancellation of appointment and certificates

23 (1) In this section:

"appointment" means an appointment as a collector or as a refiner collector;

"certificate" means a registration certificate, registered consumer certificate, registered air service certificate or registered marine service certificate;

"person" means a collector, refiner collector, registered consumer, registered air service, registered marine service and a person who holds a registration certificate.

(2) The director may, without advance notice to a person, suspend the person's appointment or certificate for a period of up to 60 days

(a) if the director is satisfied that the person knowingly gave false information on an application for the appointment or certificate,

(b) if the person refuses or neglects to comply with

(i) a provision of this Act or the regulations,

(ii) a condition or limitation specified by the director on the appointment or certificate held by the person,

(iii) a provision of the agreement referred to in section 16 (2), 19 (2), 20 (2) or 21 (2), or

(iv) a requirement of the director to deposit a bond under section 59,

(b.1) with respect to an appointment as a refiner collector, if the director is satisfied that the condition referred to in section 16 (2.1) (a) (ii) is not being met, or

(c) if authorized by the regulations.

(3) If the director suspends an appointment or certificate of a person under subsection (2), the director must, as soon as reasonably possible,

(a) advise the person of the reasons for the suspension, and

(b) provide the person with an opportunity to show the director why the suspension should be lifted.

(4) Subject to subsection (5), the director may, by notice delivered to a person, cancel the person's appointment or certificate

(a) if the director is satisfied that the person knowingly gave false information on an application for the appointment or certificate,

(b) if the person refuses or neglects to comply with

(i) a provision of this Act or the regulations,

(ii) a condition or limitation specified by the director on the appointment or certificate held by the person,

(iii) a provision of the agreement referred to in section 16 (2), 19 (2), 20 (2), or 21 (2), or

(iv) a requirement of the director to deposit a bond under section 59,

(b.1) with respect to an appointment as a refiner collector, if the director is satisfied that the condition referred to in section 16 (2.1) (a) (ii) is not being met, or

(c) if authorized by the regulations.

(5) Before cancelling an appointment or a certificate under subsection (4), the director must

(a) give the person notice of the reasons for the proposed cancellation, and

(b) provide the person with an opportunity to show the director why the appointment or certificate should not be cancelled.

(6) Cancellation of an appointment or certificate under subsection (4) takes effect on the later of

(a) the date that notice of it is delivered to the person, and

(b) the date stated in the notice.

(7) If required by the regulations, the director must cancel a person's appointment or certificate in accordance with the regulations.

(8) If the director cancels a person's appointment or certificate under subsection (7) the director

(a) is not required to provide advance notice of the cancellation to the person, and

(b) must provide written reasons to the person.

(9) A suspension or cancellation of an appointment or certificate of a person under this section or section 24 does not relieve the person from any liability.

Automatic suspension and cancellation

24 (1) If the appointment of a person as a collector under the Motor Fuel Tax Act is suspended under that Act, the appointment of that person as collector under this Act is automatically suspended without notice for the same period as the suspension under the Motor Fuel Tax Act, if both appointments are in relation to the same substance.

(1.1) If the appointment of a person as a collector under this Act or the Motor Fuel Tax Act is suspended under either Act, the appointment of that person as refiner collector under this Act is automatically suspended without notice for the same period as the suspension under this Act or the Motor Fuel Tax Act.

(2) If the appointment of a person as a collector under the Motor Fuel Tax Act is cancelled under that Act, the appointment of that person as collector under this Act is automatically cancelled without notice if both appointments are in relation to the same substance.

(2.1) If the appointment of a person as a collector under this Act or the Motor Fuel Tax Act is cancelled under either Act, the appointment of that person as refiner collector under this Act is automatically cancelled without notice.

(2.2) If a person's registration under section 168 of the Provincial Sales Tax Act is suspended under that Act, the registration certificate issued to that person under this Act is automatically suspended without notice for the same period as the suspension under the Provincial Sales Tax Act.

(2.3) If a person's registration under section 168 of the Provincial Sales Tax Act is cancelled under that Act, the registration certificate issued to that person under this Act is automatically cancelled without notice.

(3) and (4) [Repealed 2010-5-172.]

(5) If a registered consumer certificate issued to a person under the Motor Fuel Tax Act is suspended under that Act, the registered consumer certificate issued to that person under this Act is automatically suspended without notice for the same period as the suspension under the Motor Fuel Tax Act, if both certificates are in relation to the same substance.

(6) If a registered consumer certificate issued to a person under the Motor Fuel Tax Act is cancelled under that Act, the registered consumer certificate issued to that person under this Act is automatically cancelled without notice, if both certificates are in relation to the same substance.

Division 2 — Duties of Retail Dealers, Deputy Collectors and Collectors

Collection of tax on sale of fuel to a purchaser

25 (1) Subject to subsection (3) and the regulations, a retail dealer must collect the tax imposed by this Act at the time of selling fuel to a purchaser.

(2) A person who is a retail dealer must comply with the obligations of a retail dealer even if the person is also a collector or a registered consumer with respect to other fuel.

(3) If a retail dealer sells to a purchaser who is a registered consumer, registered air service or registered marine service fuel that is the type or subcategory of a type of fuel specified on the purchaser's certificate, the retail dealer is not required to collect tax from the purchaser.

Duties of retail dealers, deputy collectors and collectors

26 (1) Subject to sections 30, 31 and 32 and the regulations, a collector or deputy collector who sells fuel to a deputy collector or retail dealer must collect the tax from the deputy collector or retail dealer who bought the fuel.

(2) Subject to section 31 and the regulations, a deputy collector who buys fuel from a collector or other deputy collector must, on demand of the collector or the other deputy collector, remit the tax on the fuel collected from a retail dealer or another deputy collector to the person who made the demand.

(3) Subject to section 32 and the regulations, a retail dealer who buys fuel from a collector or deputy collector must, on demand of the collector or deputy collector, remit the tax on the fuel collected from a purchaser to the person who made the demand.

(4) A retail dealer or deputy collector who does not remit the tax collected in accordance with subsection (2) or (3) must remit the tax collected to the director at the prescribed time and in the prescribed manner.

(5) Despite section 38 and the regulations, any money received by a collector, deputy collector or retail dealer in respect of a sale of fuel, up to the full amount of the taxes owing, is deemed to be payment of the taxes owing by the purchaser under this Act.

Relief of obligations to extent tax remitted

26.1 If a vendor's appointment as a collector for a fuel is effective in accordance with section 16 (2.3) and the collector sold, within British Columbia, the fuel within the period beginning on the date the appointment was effective in accordance with section 16 (2.3) and ending on the date the appointment was made by the director, the following apply in respect of that fuel:

- (a) the collector or a deputy collector is relieved of any obligation under section 26 (1) to collect tax on the fuel to the extent that the tax on that fuel has been remitted to the government;
- (b) a deputy collector is relieved of any obligation under section 26 (2) to remit tax on the fuel to the extent that the tax on that fuel has been remitted to the government;
- (c) a retail dealer is relieved of any obligation under section 26 (3) to remit the tax on the fuel to the extent that the tax on that fuel has been remitted to the government;
- (d) a retail dealer or deputy collector is relieved of any obligation under section 26 (4) to remit the tax collected on the fuel to the extent that the tax on that fuel has been remitted to the government;
- (e) the collector is relieved of any obligation under section 30 (1) to pay security with respect to that fuel to the extent that the tax on that fuel has been remitted to the government;
- (f) a deputy collector is relieved of any obligation under section 31 (1) to pay security with respect to that fuel to the extent that the tax on that fuel has been remitted to the government;
- (g) a retail dealer is relieved of any obligation under section 32 (1) to pay security with respect to that fuel to the extent that the tax on that fuel has been remitted to the government.

Agent of the government

27 A person who sells fuel is deemed to be an agent of the government and as agent must levy and collect tax as required by this Act.

Division 3 — Collected Taxes

Remittance to government

28 (1) A retail dealer of natural gas must remit the tax collected to the government at the prescribed time and in the prescribed manner.

(2) Subject to section 30, a collector must remit to the government all taxes collected by the collector under this Act at the prescribed time and in the prescribed manner.

(3) If a person collects an amount as if it were a tax imposed under this Act, the person must remit the amount collected to the government at the prescribed time and in the prescribed manner.

(4) A person, other than a collector or deputy collector, who sells fuel to a retail dealer and receives money in respect of the tax payable on the fuel must remit that money to the government at the prescribed time and in the prescribed manner.

(5) If

(a) a person, in respect of fuel, receives an amount as security under this Act or receives an amount as if it were security under this Act, or receives both, and

(b) the total amount received exceeds the amount of security the person paid on the fuel,

the person must remit to the government, at the prescribed time and in the prescribed manner, the difference between the total amount received for the fuel and the amount of security paid on the fuel.

(6) An amount that is remitted by a collector or deputy collector under subsection (5) may, unless the amount is refunded under this Act, be retained by the government in satisfaction of the collector's or deputy collector's obligation to collect and remit the tax imposed by this Act on a purchaser of the fuel.

Tax collected deemed to be held in trust

29 If a person collects an amount of tax under this Act or collects an amount as if it were tax under this Act,

(a) the person is deemed to hold the amount in trust for the government until the amount is remitted to the government in the manner and at the time required under this Act, and

(b) the amount collected is deemed to be held separate from and does not form a part of the person's money, assets or estate, whether or not the amount collected has in fact been kept separate and apart from either the person's own money or the assets of the estate of the person who collected the amount.

Division 4 — Security

Security from collector

30 (1) Subject to subsections (1.1), (3) and (4), a collector who, within British Columbia, sells a fuel for the first time after the fuel is manufactured in British Columbia or imported into British Columbia must pay, with respect to that fuel, security to the government in an amount equal to the tax that would be collectable if the fuel were sold, at that time, to a purchaser who is liable to pay tax on the purchase.

(1.1) Subject to subsections (3) and (4), a collector who, within British Columbia, sells fuel for the first time in a sale referred to in section 1.1 (5) is deemed to be making the first sale of the fuel for the purposes of subsection (1) of this section.

(2) The security referred to in subsection (1) must be paid to the government at the prescribed time and in the prescribed manner.

(3) For the purposes of subsections (1) and (1.1), a sale of fuel within British Columbia for the first time does not include a sale of a type or subcategory of a type of fuel by one refiner collector to another refiner collector, if both are appointed refiner collectors for the same type or subcategory of a type of fuel.

(4) A collector who sells fuel that the collector bought in the circumstances described in subsection (3) is deemed to be making the first sale of fuel for the purposes of subsection (1) or (1.1), as applicable, if the collector sells the fuel in circumstances other than those described in subsection (3).

(5) A collector who, as a retail dealer, sells

(a) fuel that is exempt from tax under section 14 (2) (c), (d), (e) or (g),

(b) fuel to a purchaser who is not liable to pay tax on that purchase, or

(c) to a person who is a registered air service or registered marine service, fuel that is the type or subcategory of the type specified on that person's registered air service certificate or registered marine service certificate

is exempt from the requirement to pay security under subsection (1) in respect of that fuel.

(5.1) A collector is exempt from the requirement to pay security under subsection (1) in respect of fuel if the collector sells the fuel to a deputy collector or retail dealer who is exempt from the requirement to pay security under section 31 (1) or 32 (1) in respect of that fuel.

(6) On application by a collector, the director may, in writing and on conditions the director considers appropriate, exempt the collector from the requirements of subsection (1) in respect of a fuel if the collector satisfies the director that the fuel

(a) is to be sold to a purchaser who is not liable to pay tax on that purchase,

(b) is not to be sold to a purchaser, or

(c) is to be sold to a person who is a registered air service or registered marine service and the fuel is the type or subcategory of a type of fuel specified on the certificate held by that person.

(7) An amount that is paid by a collector as security under subsection (1) may, unless the amount is refunded under this Act, be retained by the government in satisfaction of the collector's obligation to collect and remit the tax imposed by this Act on a purchaser of fuel.

Security from deputy collector

31 (1) A deputy collector who buys fuel from a collector or another deputy collector must pay, as security to the collector or the other deputy collector, an amount equal to the tax that would be collectable if that fuel were sold, at that time, to a purchaser who is liable to pay tax on the purchase.

(1.1) A deputy collector who buys fuel that is to be sold by the deputy collector outside of British Columbia is exempt from the requirement to pay security under subsection (1) in respect of the fuel if that fuel is to be removed from British Columbia

(a) by the collector or other deputy collector from whom the deputy collector bought the fuel,

(b) by a person acting on behalf of the collector or other deputy collector from whom the deputy collector bought the fuel,

(c) by the deputy collector or a person acting on behalf of the deputy collector, if the deputy collector or the person acting on behalf of the deputy collector has, at the time the deputy collector buys the fuel, entered into a contract with a common carrier for the removal of the fuel from British Columbia, or

(d) in prescribed circumstances.

(2) On application by a deputy collector, the director may, in writing and on conditions the director considers appropriate, exempt the deputy collector from the requirements of subsection (1) in respect of a fuel if the deputy collector satisfies the director that the fuel

(a) is to be sold to a purchaser who is not liable to pay tax on that purchase,

(b) is not to be sold to a purchaser, or

(c) is to be sold to a person who is a registered air service or registered marine service and the fuel is the type or subcategory of a type of fuel specified on the certificate held by that person.

(3) A collector or deputy collector who, in respect of fuel, has paid an amount as security under section 30 (1) or subsection (1) of this section may retain any amount received under subsection (1) of this section instead of collecting the tax imposed on the purchaser in respect of that fuel.

(4) If, under subsection (1), a deputy collector pays an amount as security in respect of fuel and that amount is retained under subsection (3), the deputy collector is, subject to section 35, deemed to have satisfied the deputy collector's obligation to remit the tax that is imposed by this Act on the purchaser of the fuel.

Security from retail dealer

32 (1) If a retail dealer buys fuel from a collector or deputy collector, the retail dealer must pay, as security to the collector or deputy collector, an amount equal to the tax that would be collectable if that fuel were sold, at that time, to a purchaser who is liable to pay tax on the purchase.

(2) On application by a retail dealer, the director may, in writing and on conditions the director considers appropriate, exempt the retail dealer from the requirements of subsection (1) in respect of a fuel if the retail dealer satisfies the director that the fuel

(a) is to be sold to a purchaser who is not liable to pay tax on that purchase,

(b) is not to be sold to a purchaser, or

(c) is to be sold to a person who is a registered air service or registered marine service and the fuel is the type or subcategory of a type of fuel specified on the certificate held by that person.

(3) A collector or deputy collector who, in respect of fuel, has paid an amount as security under section 30 (1) or 31 (1) may retain any amount received under subsection (1) of this section instead of collecting the tax imposed on the purchaser in respect of that fuel.

(4) If, under subsection (1), a retail dealer pays an amount as security in respect of fuel and that amount is retained under subsection (3), the retail dealer is, subject to section 35, deemed to have

satisfied the retail dealer's obligation to remit the tax that is imposed by this Act on the purchaser of the fuel.

Exemption from security

33 (1) A person who buys natural gas for resale must not pay security on that natural gas.

(2) A person who sells natural gas must not collect security on that natural gas.

Division 5 — Change in the Rate of Tax

Change in tax rate and collection of tax

34 (1) If a scheduled rate change for a fuel takes effect between the time a retail dealer sells the fuel to a purchaser and the time the purchaser receives delivery of the fuel, the retail dealer must collect tax on that fuel at the rate that applies at the time the purchaser receives delivery of the fuel.

(2) [Repealed 2012-8-10.]

Change in tax rate and payment of security

35 (1) If a deputy collector or retail dealer who owns fuel at the time the rate of tax for the fuel changes was required to pay security on the fuel before the tax rate changed, the deputy collector or retail dealer must provide the director with an inventory of that fuel, in accordance with the instructions of the director.

(2) For the purposes of subsection (1), if there is a scheduled rate change for a fuel between the time a retail dealer enters into an agreement to sell that fuel to a purchaser and the time the purchaser receives delivery of the fuel, the retail dealer is deemed to own the fuel on the date of the scheduled rate change.

(3) [Repealed 2012-8-10.]

(4) For the purposes of subsection (1), a deputy collector or retail dealer, as the case may be, is deemed to own a fuel on the date the tax rate for the fuel changes, if

(a) the deputy collector or retail dealer has entered into an agreement to buy the fuel and the agreement provides that the deputy collector or retail dealer owns the fuel on the date the tax rate changes,

(b) the deputy collector or the retail dealer has not received delivery of the fuel before the date the tax rate changes, and

(c) the deputy collector or the retail dealer has not entered into an agreement with another person that provides that the other person owns the fuel on the date of the tax rate change.

(5) Subject to the regulations, the director may pay a deputy collector or retail dealer who provided an inventory under subsection (1) an allowance in an amount determined under the regulations.

(6) Subject to the regulations, if the rate of tax increases, a deputy collector or retail dealer who is required to provide an inventory under subsection (1) must pay to the government the additional amount of security determined under subsection (7), within the time required by the director.

(7) The amount of additional security payable is the difference between

(a) an amount equal to the tax that would be collectable for the fuel that was required to be included in the inventory, if that fuel were sold, immediately after the increase in the rate of tax, to a purchaser who is liable to pay tax on the purchase, and

(b) the amount the deputy collector or retail dealer paid as security in respect of the fuel.

(8) An amount that is paid by a deputy collector or retail dealer as security under subsection (6) may, unless the amount is refunded under this Act, be retained by the government in satisfaction of the deputy collector's or retail dealer's obligation to collect and remit the tax imposed by this Act on a purchaser of the fuel.

(9) Subject to subsection (11), if the rate of tax decreases, a deputy collector or retail dealer who was required to provide an inventory under subsection (1) may apply to the director for a refund of the amount of security determined under subsection (10).

(10) The refund payable under subsection (9) equals the portion of the security the deputy collector or retail dealer paid that exceeds the amount of tax that would be collectable for the fuel required to be included in the inventory, if that fuel were sold, immediately after the decrease in the rate of tax, to a purchaser who is liable to pay tax on the purchase.

(11) The director must pay to a person a refund under subsection (9), from the consolidated revenue fund, if the director is satisfied that the person has not received and is not to receive a refund of the security from any person with respect to the fuel.

Part 6 — Refunds

Refund of taxes paid or remitted

36 (1) If the director is satisfied that an amount has been paid as tax in circumstances where there was no legal obligation to pay the amount as tax, the director must refund, from the consolidated revenue fund, that amount to the person entitled to it.

(2) If the director is satisfied that a collector has remitted to the government an amount as collected taxes that the collector neither collected nor was required to collect under this Act, the director must refund the amount to the collector from the consolidated revenue fund.

(2.1) Subsection (2) applies to a person who sells fuel in a sale to which section 1.1 (2) (a) to (c) applies as if the person were a collector.

(3) If the director is satisfied that a retail dealer of natural gas has remitted to the government an amount as collected taxes that the retail dealer neither collected nor was required to collect under this Act, the director must refund the amount to the retail dealer from the consolidated revenue fund.

Refund of security

37 (1) If the director is satisfied that a collector has paid an amount as security to the government in circumstances where there was no legal obligation to pay the amount as security, the director must refund, from the consolidated revenue fund, that amount to the collector.

(1.1) Subsection (1) applies to a person who sells fuel in a sale to which section 1.1 (2) (a) to (c) applies as if the person were a collector.

(2) Subject to subsection (2.1), if the director is satisfied that a person who is a collector, deputy collector or retail dealer has paid security on fuel that

(a) was sold to a purchaser who was not liable to pay tax on that purchase,

(b) was not sold and is not to be sold to a purchaser, or

(c) was sold to a registered air service or registered marine service, and was the type or subcategory of a type of fuel specified on the registered air service's or registered marine service's certificate,

the director must pay, from the consolidated revenue fund, to the person the difference between the amount of security the person paid on the fuel and the amount of security or tax the person received for the fuel.

(2.1) A refund is not payable under subsection (2) in respect of the fuel if,

(a) in the case of a person who has paid security on fuel and has subsequently coloured and sold that fuel, the person has not complied with sections 14 and 14.1 of the Motor Fuel Tax Act, or

(b) in the case of a person who has paid security on coloured fuel and has subsequently sold that coloured fuel, the person has not complied with section 14.1 of the Motor Fuel Tax Act.

(3) A deputy collector or retail dealer who has received an amount under subsection (2) for a fuel is not entitled to, and must not request, a refund of security from the person who sold the fuel to the deputy collector or retail dealer.

(4) If a vendor, wholesale dealer or retail dealer receives an amount under subsection (2) for a fuel and subsequently receives security or collects tax or an amount as if it were tax on the fuel with respect to which the amount was paid, the vendor, wholesale dealer or retail dealer must pay to the government the amount received or collected on the fuel at the prescribed time and in the prescribed manner.

Refund or deduction for bad debts

38 (1) In this section:

"sale" means a sale referred to in subsection (2) (a);

"seller" means a collector, deputy collector or retail dealer;

"specified amount", in relation to a sale, means a portion, determined in the prescribed manner, of the amount remitted or paid to the government by the seller in respect of taxes or security payable under this Act on the sale.

(2) This section applies to a seller in respect of a sale if

(a) the seller sells fuel,

(b) the seller, in accordance with this Act,

(i) remits the tax required under this Act to be collected for the sale, or

(ii) pays or has paid the security required under this Act to be paid in respect of the fuel,

(c) the person buying the fuel does not pay to the seller the full amount of the consideration in respect of the sale, and

(d) within 4 years of the date on which the tax or security referred to in paragraph (b) (i) or (ii), as the case may be, was remitted or paid, the seller writes off as unrealizable or uncollectable the amount owing by the person who bought the fuel.

(3) If a seller to whom this section applies in respect of a sale is a collector or a retail dealer of natural gas, the seller may deduct the specified amount from the amount of taxes or security that the seller is required to remit or pay under this Act in respect of the reporting period in which the seller writes off the amount owing referred to in subsection (2) (d).

(4) A deduction referred to in subsection (3) must be made in a form specified by the director.

(5) If the director is satisfied that

(a) this section applies to a seller in respect of a sale, and

(b) if the seller is a collector or a retail dealer of natural gas, the seller has not made a deduction under subsection (3) in respect of the sale,

the director must refund from the consolidated revenue fund the specified amount to the seller.

(6) If a seller who is a collector or a retail dealer of natural gas has made a deduction under subsection (3) or obtained a refund under subsection (5) and recovers some or all of the amount referred to in subsection (2) (d) with respect to which the refund was paid or the deduction was made, the seller must add an amount, determined in the prescribed manner, to the tax to be remitted or security to be paid by the seller under this Act in respect of the reporting period in which the recovery was made.

(7) If a seller, other than a seller referred to in subsection (6), who obtained a refund under subsection (5) recovers some or all of the amount referred to in subsection (2) (d) with respect to which the refund was paid, the seller must pay to the government an amount, determined in the prescribed manner, on or before the last day of the month following the month in which the recovery was made.

Refund for interjurisdictional air or marine travel or transport

39 If the director is satisfied that an amount has been paid as tax for fuel that was used for interjurisdictional air or marine travel or transport in the prescribed circumstances and in accordance with the prescribed rules, the director must pay a refund, from the consolidated revenue fund, in accordance with the regulations.

Refund for farmers

39.1 Subject to the regulations, if the director is satisfied that

(a) a farmer paid tax under this Act for fuel that

(i) was a prescribed type of fuel,

(ii) was a prescribed subcategory of a type of fuel, or

(iii) was in a prescribed class of a type of fuel or of a subcategory of a type of fuel, and

(b) the fuel was used for a prescribed purpose,

the director must pay to the farmer, from the consolidated revenue fund, a refund of the tax paid by the farmer.

Refunds authorized or required under the regulations

40 The director

(a) if authorized by the regulations, may pay from the consolidated revenue fund a refund of all or a portion of tax or security paid by an applicant for a refund, and

(b) if required by the regulations, must pay from the consolidated revenue fund a refund of all or a portion of tax or security paid by an applicant for a refund.

Claim for refund

41 (1) To claim a refund under this Act, a person must submit to the director

(a) subject to the regulations, a written application in the form and manner satisfactory to the director and signed by the person who paid or remitted the amount claimed, and

(b) any information or document required by the director.

(2) For the purposes of subsection (1) (a), if the person who paid or remitted the amount claimed is a corporation, the application must be signed by a board member or authorized employee of the corporation.

(2.1) Despite anything in this Act or the regulations, the director is not required to pay a refund to a person who claims a refund under subsection (1) unless the requirements of subsections (1) and (2) are met.

(3) A person who is required to file a return for tax or security under this Act may

(a) instead of submitting a written application under subsection (1) (a), submit, as part of the return, a claim for a refund for the reporting period to which the return relates, and

(b) deduct the amount of the refund claimed from the amount of tax or security required to be remitted or paid by the person.

Refund limits

42 (1) Despite section 16 of the Financial Administration Act,

(a) a refund of less than \$10 must not be made,

(b) a refund, other than a refund referred to in paragraph (c), must not be made on a claim for a refund that is received by the director more than 4 years after the date on which the amount claimed was paid or remitted, and

(c) a refund to a person under section 38 (5) must not be made on a claim for a refund that is received by the director more than 4 years after the date on which the person who sold the fuel referred to in section 38 writes off as unrealizable or uncollectable the amount owing by the person who bought that fuel.

(2) Despite the Limitation Act, an action for a refund must not be brought more than 4 years after the date on which the amount claimed was paid or remitted.

Part 7 — Tax Collection Administration

Inspection and audit powers

43 (1) Except as limited by subsection (4), to determine whether, with respect to a fuel, this Act and the regulations are being or have been complied with, the director may enter at any reasonable time the business premises occupied by a person, the premises where the records of the person are kept or a site at which fuel is manufactured, sold, stored or used, in order to do any of the following:

(a) inspect, audit and examine books of account or other records;

(b) inspect, ascertain the quantities of, and take samples of fuel, including, without limitation, fuel in fuel tanks of motor vehicles, aircraft or ships or fuel tanks mounted on motor vehicles, aircraft or ships.

(2) Except as limited by subsection (4), to determine whether, with respect to combustibles, this Act and the regulations are being or have been complied with, the director may enter at any reasonable time the business premises occupied by a person, the premises where the records of the person are kept or a site at which combustibles are burned for the purpose of producing energy or heat, in order to do any of the following:

(a) inspect, audit and examine books of account or other records;

(b) inspect, ascertain the quantities of, and take samples of combustibles.

(3) A person occupying premises or a site referred to in subsection (1) or (2) must

(a) produce all books of account or other records as may be required by the director, and

(b) answer all questions of the director regarding the matters referred to in that subsection.

(4) The power to enter a place under subsection (1) or (2) must not be used to enter a dwelling occupied as a residence without the consent of the occupier except under the authority of a warrant under subsection (5).

(5) On being satisfied by evidence on oath that there are in a place records or other things for which there are reasonable grounds to believe that they are relevant to the matters referred to in subsection (1) or (2), a justice may issue a warrant authorizing a person named in the warrant to enter the place in accordance with the warrant in order to exercise the powers referred to in subsection (1) (a) and (b) or (2) (a) and (b).

(6) When required by the director, a person must provide to the director all books of account and other records that the director considers necessary to determine whether this Act and the regulations are being or have been complied with.

(7) A person must not

(a) hinder, molest or interfere with a person doing anything that the person is authorized to do under this section, or

(b) prevent or attempt to prevent a person from doing anything that the person is authorized to do under this section.

Estimate of unremitted tax or unpaid security

44 (1) If a person who is required to file a return for tax or security under this Act fails to file a return, pay tax or security or remit an amount as required under this Act, or if the records of a person do not substantiate a return of the person for tax or security, the director may make an estimate of the amount that was collected or is payable by the person and for which the person has not accounted.

(2) The amount estimated under subsection (1) is deemed to be the amount collected or payable by the person in respect of whom the estimate is made.

(3) In making an estimate under this section the director must not consider or include a period longer than 4 years before the date of the first notice of assessment.

(4) Despite subsection (3), the director may enter into a written agreement with a person in which the person waives subsection (3) and allows the director, in making an estimate under this section, to consider and include any period specified in the agreement.

Assessment if amount not paid or remitted or if excess deduction or refund

45 (0.1) If it appears from an inspection, audit or examination or from other information available to the director that taxes have not been paid as required under this Act, the director may

(a) calculate, in the manner and by the procedure the director considers appropriate, the tax not paid, and

(b) assess the person liable to pay the tax.

(1) If it appears from an inspection, audit or examination or from other information available to the director that security has not been paid or an amount has not been remitted as required under this Act, the director must

(a) calculate, in the manner and by the procedure the director considers appropriate, the security not paid or amount not remitted, and

(b) assess the person liable to pay the security or remit the amount.

(1.1) Subsection (1) does not apply in respect of security on fuel that has not been paid by a person, to the extent that the director is satisfied that, in respect of the sale of the fuel by the person, or in respect of a subsequent sale of that fuel,

(a) tax required to be paid or remitted under this Act has been paid or remitted to the government,

(b) a penalty imposed under section 46 in an amount equal to the amount referred to in paragraph (a) of this subsection has been paid to the government, or

(c) the person to whom the fuel was sold would be entitled to a refund of tax or security under this Act if that person had paid that tax or security.

(1.2) If, in accordance with subsection (1.1), subsection (1) does not apply in relation to security not paid under this Act, the security is no longer an amount owing to the government.

(1.3) If it appears from an inspection, audit or examination or from other information available to the director that a person has deducted an amount under section 38 (3) that was in excess of the amount that the person was entitled to deduct under that section, the director must make an assessment against the person in an amount equal to the excess amount deducted plus interest calculated at the rate and in the manner prescribed.

(2) If it appears from an inspection, audit or examination or from other information available to the director that a person has received a refund of an amount under this Act or has deducted an amount under section 41 (3) that was in excess of the refund amount that was due to the person, the director

must make an assessment against the person in an amount equal to the excess amount refunded or deducted plus interest calculated at the rate and in the manner prescribed.

(2.01) Subsection (2) does not apply in relation to a person who has received a refund of an amount under this Act, other than a refund of an amount under section 38 (5), or who has made a deduction of an amount under section 41 (3), to the extent that the director is satisfied that

(a) the refund or deduction is in respect of security on fuel that was paid by the person,

(b) the person did not, in respect of the sale by that person of the fuel referred to in paragraph (a) of this subsection,

(i) receive and retain security, or receive and retain an amount as if it were security, or

(ii) collect and retain tax, or collect and retain an amount as if it were tax, and

(c) in respect of the sale by the person of the fuel referred to in paragraph (a) of this subsection, or in respect of a subsequent sale of that fuel,

(i) tax required to be paid or remitted under this Act has been paid or remitted to the government,

(ii) a penalty imposed under section 46 in an amount equal to the amount referred to in subparagraph (i) of this paragraph has been paid to the government, or

(iii) the person to whom the fuel was sold would be entitled to a refund of tax or security under this Act in respect of that fuel if that person had paid that tax or security.

(2.1) If it appears from an inspection, audit or examination or from other information available to the director that a person has not paid an amount required to be paid under section 53 (2), the director must make an assessment against the person in an amount equal to the amount required to be paid under that section.

(2.2) If it appears from an inspection, audit or examination or from other information available to the director that a person has not paid an amount required to be paid under section 65 (4), the director must make an assessment against the person in an amount equal to the amount required to be paid under that section.

(3) In making an assessment under this section the director must not consider or include a period longer than 4 years before the date of the first notice of assessment.

(4) Despite subsection (3), in making an assessment under this section the director may consider and include any period, if the assessment relates to a contravention, of this Act or the regulations, involving wilful default or fraud.

(5) Despite subsection (3), the director may enter into a written agreement with a person in which the person waives subsection (3) and allows the director, in making an assessment under this section, to consider and include any period specified in the agreement.

Failure to collect taxes

46 (1) Subject to subsection (2), if it appears from an inspection, audit or examination or from other information available to the director that an amount of tax imposed under this Act should have been but was not collected, the director must impose on the person who should have collected the tax a

penalty equal to the amount of the tax that should have been collected, plus interest calculated at the rate and in the manner prescribed.

(1.1) If the director must impose a penalty on a person under subsection (1), the director, despite that subsection, may impose a penalty on the person as follows:

(a) if the director is satisfied that the person liable to pay the tax has paid the tax to the government, the director may impose on the person who should have collected the tax a penalty equal to the amount of the penalty that would otherwise be imposed under that subsection less the amount of tax paid to the government by the person liable to pay the tax, plus interest calculated at the rate and in the manner prescribed;

(b) if the director is satisfied that the person liable to pay the tax would be entitled to a refund of the tax if the person had paid the tax, the director may impose on the person who should have collected the tax a penalty equal to the amount of the penalty that would otherwise be imposed under that subsection less the amount of the refund of tax to which the person would be entitled, plus interest calculated at the rate and in the manner prescribed.

(2) The director must not impose a penalty on a person under subsection (1) or (1.1) in respect of fuel

(a) if the person is assessed for failing to pay security under section 45 (1) in respect of that fuel,

(b) if, in accordance with section 45 (1.1), section 45 (1) does not apply in respect of that fuel.

(c) if the person is assessed under section 45 (2) in relation to an amount refunded to the person or deducted by the person in respect of that fuel, or

(d) if, in accordance with section 45 (2.01), section 45 (2) does not apply in relation to the person in respect of that fuel.

(3) A person who has paid an amount imposed under subsection (1) may, in a court of competent jurisdiction, sue the person who was liable to pay the tax in order to recover the amount imposed under subsection (1), and any amount recovered in the action may be retained by the plaintiff as compensation for the amount paid under subsection (1).

(4) In imposing a penalty under this section the director must not consider or include a period longer than 4 years before the date of the first notice of assessment.

(5) Despite subsection (4), in imposing a penalty under this section the director may consider and include any period, if the penalty is imposed as a result of a contravention, of this Act or the regulations, involving wilful default or fraud.

(6) Despite subsection (4), the director may enter into a written agreement with a person in which the person waives subsection (4) and allows the director, in imposing a penalty under this section, to consider and include any period specified in the agreement.

Penalties

47 (1) In addition to any other penalty, the director may do any of the following:

(a) if the director is satisfied that a person who collected an amount or received security in respect of a fuel wilfully failed to remit the amount or pay security on the fuel to the government as required under this Act, impose on the person a penalty equal to 100% of the amount not remitted or paid;

(b) in any case other than a case referred to in paragraph (a), if the director is satisfied that, by wilfully making a false or deceptive statement or by wilful default or fraud, a person

(i) evaded the payment of tax or security to the government,

(ii) deducted an amount under section 38 (3) that was in excess of the amount that the person was entitled to deduct under that section, or

(iii) received a refund of an amount under this Act, or deducted an amount under section 41 (3), that was in excess of the refund amount that was due to the person,

impose on the person a penalty equal to 25% of, as applicable, the amount evaded or the excess amount deducted or received;

(c) in any case other than a case referred to in paragraph (a) or (b), if the director is satisfied that a person

(i) failed to collect, remit or pay any amount to the government as required under this Act,

(ii) deducted an amount under section 38 (3) that was in excess of the amount that the person was entitled to deduct under that section, or

(iii) received a refund of an amount under this Act, or deducted an amount under section 41 (3), that was in excess of the refund amount that was due to the person,

impose on the person a penalty equal to 10% of, as applicable, the amount not collected, remitted or paid as required under this Act or the excess amount deducted or received.

(2) If the director is satisfied that a vendor sold, within British Columbia, a type or subcategory of a type of fuel before the vendor was appointed a collector for that fuel, the director may impose on the vendor, in addition to any other penalty, a penalty equal to the greater of

(a) 10% of the security that the vendor would have been required to pay under section 30 in respect of that fuel if the vendor, at the time of sale, had been a collector who was not exempt from the requirement to pay security under that section, and

(b) the difference between the total tax payable in respect of the fuel under this Act and the amount of tax and security paid or remitted to the government under this Act in respect of that fuel.

(3) If the director is satisfied that a vendor whose appointment as a collector for a type or subcategory of a type of fuel is effective in accordance with section 16 (2.3) sold, within British Columbia, that type or subcategory of a type of fuel in the period described in section 26.1, the director may impose on the vendor, in addition to any other penalty, a penalty equal to 10% of the security that the vendor would have been required to pay under section 30 in respect of that fuel if the vendor, at the time of sale, had been a collector.

(4) For the purposes of subsection (5) and despite section 16 (2.3), a vendor whose appointment as a collector for a type or subcategory of a type of fuel is effective in accordance with section 16 (2.3) is deemed to have been appointed a collector at the time the director made the appointment.

(5) If the director is satisfied that a vendor wilfully sold fuel contrary to section 15, the director may impose on the vendor, in addition to any other penalty, a penalty equal to the amount of security that the vendor would have been required to pay under section 30 in respect of that fuel if the vendor, at the time of sale, had been a collector who was not exempt from the requirement to pay security under that section.

Board member's liability

48 (1) Subject to this section, if a corporation has failed to collect or remit taxes, or to pay an amount of security as required under this Act, a board member of that corporation is jointly and severally liable with the corporation to pay an amount equal to

(a) the taxes that the corporation failed to collect or remit during the term of the board member, any related penalty and any interest on that amount and the penalty, and

(b) the security that the corporation failed to pay during the term of the board member, any related penalty and any interest on that amount and the penalty.

(2) A board member is not liable under subsection (1) unless one of the following has occurred:

(a) a certificate has been filed under section 61 with respect to the amount the corporation is liable to pay under this Act;

(b) the corporation has been dissolved or has commenced liquidation or dissolution proceedings in any jurisdiction;

(c) the corporation has, under the Bankruptcy and Insolvency Act (Canada),

(i) made an assignment in bankruptcy,

(ii) filed a notice of intention to make a proposal with the official receiver, or

(iii) made a proposal under Division 1 of Part III of that Act;

(d) a bankruptcy order has been made against the corporation under the Bankruptcy and Insolvency Act (Canada);

(e) the corporation has obtained a court order granting a stay of proceedings under section 11.02 of the Companies' Creditors Arrangement Act (Canada);

(f) the corporation has been or is subject in any jurisdiction to a proceeding of a similar nature to a proceeding referred to in paragraphs (c) to (e).

(3) A board member is not liable under subsection (1) if the board member exercised the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances to prevent the corporation's failure to collect or remit taxes or to pay security as required under this Act.

Refunds when joint and several liability

49 (1) Despite sections 36 (2) and 37, or any regulation that requires the payment of a refund of amounts collected or security to a corporation, if the director is satisfied that the total of the amount paid by one or more board members who are jointly and severally liable with the corporation under section 48 and the amount, if any, paid by the corporation exceeds the amount owed by the corporation under this Act for the period that the board members, who made the payments, were jointly and severally liable with the corporation, the director must pay a refund from the consolidated revenue fund in accordance with the following:

(a) if only one board member paid all or part of the amount for which one or more board members and the corporation were jointly and severally liable under section 48 (1), refund to the board member the amount of the excess, up to the amount paid by the board member;

(b) if 2 or more board members paid the amount or a part of the amount for which board members and the corporation were jointly and severally liable under section 48, refund to the board members the amount of the excess divided proportionately between the board members, up to the amount paid by each board member;

(c) after making the payment under paragraph (a) or (b), refund to the corporation any remaining amount of the excess, up to the amount paid by the corporation.

(2) A refund under subsection (1) (b) must be based on the ratio of the amounts paid by the board members who are jointly and severally liable under section 48 (1) for the applicable period of the refund.

(3) A refund may be paid under subsection (1) only to a board member or corporation who has applied for a refund.

Deemed board member

50 (1) If the director has reason to believe that a person who was not a member of the board of directors of a corporation performed some or all of the functions of a member of the board of directors of the corporation, the director may request the person and the corporation to provide to the director the records and information required by the director to confirm or rebut that belief.

(2) Subject to subsection (3), the director may decide that a person performed some or all of the functions of a member of the board of directors of a corporation if

(a) the person or the corporation that has been requested to provide records or information to the director under subsection (1) fails or refuses to comply with the request within a period of time considered by the director to be reasonable in the circumstances, or

(b) the records or information provided to the director under this section confirm that the person performed some or all of the functions of a member of the board of directors of the corporation.

(3) The director must not decide under subsection (2) (b) that a person performed some or all of the functions of a member of the board of directors of a corporation if the decision is based solely on

- (a) the person participating in the corporation's management under the direction or control of a shareholder, one or more members of the board of directors or a senior officer of the corporation,
 - (b) the person being a lawyer, accountant or other professional whose primary participation in the management of the corporation was the provision of professional services to the corporation,
 - (c) the corporation being bankrupt and the person being a trustee in bankruptcy who participates in the management of the corporation or exercises control over its property, rights and interests primarily for the purposes of the administration of the bankrupt's estate, or
 - (d) the person being a receiver, receiver manager or secured creditor who participates in the management of the corporation or exercises control over any of its property, rights and interests primarily for the purposes of enforcing a debt obligation of the corporation.
- (4) If the director decides under subsection (2) that a person performed some or all of the functions of a member of the board of directors of a corporation, the person is deemed a board member of the corporation for the purposes of this Act for a term that equals the period the person performed those functions.
- (5) Immediately after the director makes a decision under subsection (2), the director must notify in writing the person to whom the decision relates and the corporation of this decision.

Notice of assessment

51 (1) Subject to subsection (1.2), the director must issue a notice of assessment to the person liable to pay an amount estimated, assessed or imposed if the director

- (a) makes an estimate or assessment under section 44, 45 or 52, or
- (b) imposes a penalty under section 46 or 47.

(1.1) If the director assesses interest under section 55 or 55.1, the director may issue a notice of assessment to the person liable to pay the amount of interest assessed.

(1.2) In addition to, or as an alternative to, issuing a notice of assessment under subsection (1) or (1.1), the director may issue a notice of assessment to the custodian or trustee in bankruptcy of the person referred to in subsection (1) or (1.1).

(2) Evidence that a notice of assessment under subsection (1) or (1.1) has been issued is proof, in the absence of evidence to the contrary, that the amount estimated, assessed or imposed under this Act is due and owing, and the onus of proving otherwise is on the person liable to pay the amount estimated, assessed or imposed.

(3) Subject to being amended, changed or varied on appeal or by reassessment, an estimate, assessment or penalty made or imposed under this Act is valid and binding despite any error, defect or omission in the estimate, assessment or penalty or in procedure.

Assessment against board member

52 (1) If the director decides that a board member is jointly and severally liable for an amount under section 48, the director may assess the board member for

(a) the amount assessed under section 45 or 46 or both against the corporation for the corporation's failure to collect or remit taxes or pay security or both as required during the term of the board member, any related penalty and any interest on that amount and the penalty, and

(b) the amount estimated under section 44

(i) as the tax the corporation collected, or

(ii) as the security payable by the corporation

during the term of the board member, any related penalty and any interest on that amount and the penalty.

(2) The director must not make an assessment under subsection (1) in respect of the liability of a board member under section 48 if

(a) the person is no longer a board member of that corporation, and

(b) it is more than 2 years after the last date that the person was a board member of that corporation.

Certificate required for bulk transaction

53 (1) In this section:

"bulk transaction" means either of the following:

(a) a disposition of substantially all of the inventory of fuel in British Columbia of a seller's business;

(b) a disposition of an interest in a seller's business carried on in British Columbia;

"seller" means a vendor, wholesale dealer or retail dealer;

"seller's business", in relation to a bulk transaction made, or proposed to be made, by a seller, means the seller's business referred to in paragraph (a) or (b), as the case may be, of the definition of "bulk transaction".

(2) If a person purchases fuel or an interest in a business from a seller through a bulk transaction without obtaining from the seller a duplicate copy of the certificate obtained under subsection (3), the person must pay to the government an amount equal to the total of all amounts owing under this Act, on the date of the bulk transaction, by the seller in respect of the seller's business.

(3) On application in a form and manner specified by the director, the director may issue a certificate in duplicate to a seller in respect of a proposed bulk transaction if all amounts owing under this Act by the seller in respect of the seller's business have been paid.

(4) An amount payable under subsection (2) in respect of a bulk transaction must be paid on or before the last day of the month after the month in which the bulk transaction occurred.

Irregularities

54 An estimate or assessment made, or a penalty imposed, by the director under this Act must not be varied or disallowed by a court because of an irregularity, informality, omission or error on the part of a person in the observation of any directory provision up to the date of the issuing of the notice of assessment.

Interest until notice of assessment issued

55 (1) In this section:

"non-assessed amount", in relation to a particular period, means an amount owing to the government under this Act for which a notice of assessment has not been issued under this Act, including the following:

- (a) any interest on that amount that has accrued by the beginning of the period, but not including any penalty imposed under this Act and any interest on that penalty;
- (b) despite section 45 (1.2), security that has not been paid as required under this Act but for which the person liable may not be assessed in accordance with section 45 (1.1);
- (c) the amount of a refund received by a person under this Act that was in excess of the refund amount that was due to the person but for which the person may not be assessed in accordance with section 45 (2.01);
- (d) an amount deducted by a person under section 41 (3) that was in excess of the refund amount that was due to the person but for which the person may not be assessed in accordance with section 45 (2.01);

"refund amount", in relation to a person for a particular period, means an amount equal to the amount

(a) that the person is entitled to receive from the government as a refund under Part 6, including any interest on that amount that has accrued by the beginning of the period, and

(b) on which interest payable by the government would be accruing under the Financial Administration Act but for this section.

(2) Subject to this section, the director may assess at any time interest, calculated at the prescribed rate and in the prescribed manner, on an amount owing to the government under this Act until the date that a notice of assessment is issued in relation to the amount owing.

(3) In relation to security referred to in paragraph (b) of the definition of "non-assessed amount", the director may assess interest on the security as if that security were an amount owing to the government from the date that the person was required under this Act to pay that security to the government until 60 days after that date.

(3.1) In relation to an amount referred to in paragraph (c) of the definition of "non-assessed amount", the director may assess interest on the amount from the date on which the refund was paid to the person until 60 days after that date.

(3.2) In relation to an amount referred to in paragraph (d) of the definition of "non-assessed amount", the director may assess interest on the amount from the date on which the tax or security required to be remitted or paid by the person for the applicable reporting period referred to in section 41 (3) (a) was due until 60 days after that date.

(4) Subsection (5) applies in relation to an assessment of interest for a particular period if

(a) the director is satisfied, based on an inspection, audit or examination or on other information available to the director, that for the particular period

(i) a person owes a non-assessed amount to the government, and

(ii) the person is eligible to receive a refund amount from the government, and

(b) the non-assessed amount referred to in paragraph (a) (i) exceeds or equals the refund amount referred to in paragraph (a) (ii).

(5) In relation to an assessment of interest for a particular period to which this subsection applies, interest may be assessed under subsection (2) in relation to a non-assessed amount for the particular period by assessing interest on the amount equal to the non-assessed amount for the particular period less the refund amount for the particular period.

(6) If interest is assessed under subsection (2) for a particular period in accordance with subsection (5), despite the Financial Administration Act and the regulations under that Act, no interest is payable for the particular period by the government in relation to the person's refund amount.

(7) Subsection (8) applies in relation to a particular period if

(a) the director is satisfied, based on an inspection, audit or examination or on other information available to the director, that for the particular period

(i) a person owes a non-assessed amount to the government, and

(ii) the person is eligible to receive a refund amount from the government, and

(b) the refund amount referred to in paragraph (a) (ii) exceeds the non-assessed amount referred to in paragraph (a) (i).

(8) In relation to a particular period to which this subsection applies, interest may not be assessed under subsection (2) in relation to the non-assessed amount for the particular period.

(9) If interest may not be assessed under subsection (2) for a particular period in accordance with subsection (8), for the purposes of the regulations under section 27 (1) (c) of the Financial

Administration Act, the amount owing by the government for the particular period is deemed to be reduced by the non-assessed amount for that particular period.

(10) For the purposes of this section, the director may determine, in a manner and by a procedure the director considers adequate and expedient, when an amount became owing to the government.

(11) For the purposes of this section and the regulations under section 27 (1) (c) of the Financial Administration Act, the director may determine, in a manner and by a procedure the director considers adequate and expedient, when an amount became owing by the government.

(12) For the purposes of this section, a period of time ends and a new period may begin if

- (a) the non-assessed amount or refund amount changes, or
- (b) a notice of assessment is issued in relation to all or part of a non-assessed amount.

Interest after notice of assessment issued

55.1 The director may assess at any time interest, calculated at the prescribed rate and in the prescribed manner, on an amount owing to the government under this Act from the date that a notice of assessment is issued in relation to the amount owing.

Part 8 — Appeals

Appeal to minister

56 (1) An appeal to the minister lies from a decision of the director about any of the following:

- (a) a refund of tax paid or remitted or security paid under this Act;
- (b) a refusal to appoint a collector or refiner collector or to issue a registration certificate, registered consumer certificate, registered air service certificate or registered marine service certificate;
- (c) a cancellation of an appointment of a collector or refiner collector or a registration certificate, registered consumer certificate, registered air service certificate or registered marine certificate under section 23 (4) (a), (b) or (b.1);
- (d) an estimate, assessment or imposition of a penalty under sections 44, 45, 46, 47, 52, 55 or 55.1;
- (e) a decision of the director under section 50 (2) (b) or 64 (11) (b);
- (f) a refusal under section 30 (6), 31 (2) or 32 (2) to exempt a collector, deputy collector or retail dealer from the requirement to pay security.

(2) If the director cancels a collector's or refiner collector's appointment or cancels a registration certificate, registered consumer certificate, registered air service certificate or registered marine service certificate under section 23 (4) (c), an appeal lies from the decision of the director to the minister, unless an appeal is not permitted under the regulations.

(3) Written notice of the appeal must be served on the minister within 90 days after the date on the director's notice of the decision.

(4) The appellant must set out in the notice of appeal a statement of all material facts and the reasons in support of the appeal.

(5) On receiving the notice of appeal, the minister must

(a) consider the matter,

(b) subject to subsections (6) and (7), affirm, amend or change the assessment, decision, estimate, amount imposed or the nature of the assessment, and

(c) promptly notify the appellant in writing of the result of the appeal.

(6) If an appeal relates to a matter referred to in subsection (1) (b), the minister may

(a) affirm the decision of the director, or

(b) direct the director to

(i) appoint the appellant as a collector or refiner collector subject to the conditions and limitations that the director specifies, or

(ii) issue a certificate of the type that was the subject of the appeal to the appellant, subject to the conditions and limitations that the director specifies.

(7) If an appeal relates to a matter referred to in subsection (1) (f), the minister may

(a) affirm the decision of the director, or

(b) direct the director to exempt the appellant from the requirement to pay security, subject to the conditions that the director specifies.

Appeal to court

57 (1) A decision of the minister under section 56 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 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".

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

(6) The court may dismiss the appeal, allow the appeal, vary the decision from which the appeal is made or refer the decision back to the director for reconsideration.

(7) An appeal lies from a decision of the court to the Court of Appeal with leave of a justice of the Court of Appeal.

Effects of pending appeal and of appeal changing decision

58 (1) Neither the giving of a notice of appeal by a person nor a delay in the hearing of an appeal

(a) affects the date of payment, the interest or penalties or any liability for payment under this Act in respect of the amount estimated, assessed or imposed that is the subject matter of the appeal, or

(b) delays the collection of the amount estimated, assessed or imposed.

(2) If the director's or the minister's decision is set aside or the amount of an estimate or assessment or an amount imposed is reduced on appeal, the director must refund from the consolidated revenue fund to the appellant

(a) the amount or excess amount paid, and

(b) any additional interest or penalty imposed and paid.

(3) If the amount of an estimate or assessment or an amount imposed is increased on appeal, the appellant must pay to the government

(a) the additional amount owing to the government under this Act, and

(b) any additional interest payable on the additional amount owing to the government under this Act.

Part 9 — Recovery of Amounts Owing

Collection bond

59 (1) In this section:

"applicant" means any of the following:

(a) a vendor who has applied to be appointed as a collector under section 16;

(b) a retail dealer of natural gas who has applied for a registration certificate under section 19;

(c) a person who has applied for a registered consumer certificate under section 20;

(d) a person who has applied for a registered air service certificate or registered marine service certificate under section 21;

"maximum bond amount", in relation to a bond required to be deposited by a person with the director under this section, means 6 times the estimated amount, determined in a manner and by a procedure the director considers adequate and expedient, of

(a) tax that would normally be collected under this Act by the person in a month in relation to fuel for which the person would not be required to pay security,

(b) tax that would normally be paid under this Act by the person in a month, and

(c) security that would normally be paid under this Act by the person in a month;

"taxpayer" means a collector, a retail dealer of natural gas who holds a registration certificate, a registered consumer, a registered air service, a registered marine service or a motive fuel user permit holder.

(2) The director may require an applicant or a taxpayer to deposit with the director a bond, by way of cash or other security, satisfactory to the director.

(3) The amount of the bond is to be determined by the director, but the amount must not be greater than the maximum bond amount.

(4) If there is a change in circumstances after a bond is provided under subsection (2), the director may vary the amount of the bond required, but the amount must not be greater than the maximum bond amount.

(5) If a person who has deposited a bond under this section fails to collect or pay tax, remit an amount or pay security in accordance with this Act, the director, after giving written notice to the person, may apply all or part of the bond to the amount that should have been collected, paid or remitted by the person, to any related penalty and to any interest due on that amount and the penalty.

(6) The director may return a bond deposited under this section, or may pay from the consolidated revenue fund an amount equal to the amount remaining of a bond deposited under this section, to the person who deposited the bond if

(a) the person has ceased being a taxpayer, and

(b) the person as a taxpayer has no amount owing to the government under this Act.

Court action to recover amount owing

60 An amount owing to the government under this Act may be recovered by action in a court.

Summary proceedings

61 (1) If a person fails to pay or remit an amount owing to the government under this Act, the director may issue a certificate specifying the amount owed and the name of the person who owes it.

- (2) The director may file with the Supreme Court a certificate issued under subsection (1).
- (3) A certificate filed under subsection (2) has the same force and effect, and all proceedings may be taken on the certificate, as if it were a judgment of the court in favour of the government for the recovery of a debt in the amount specified in the certificate against the person named in the certificate.
- (4) If the amount specified in a certificate is different from the actual amount owing to the government under this Act, the director may correct the amount by issuing a new certificate specifying the revised amount owed and the name of the person who owes it.
- (5) The director may file with the Supreme Court a certificate issued under subsection (4).
- (6) A certificate filed under subsection (5)
- (a) revises the certificate filed under subsection (2) that names the same person,
 - (b) is deemed to be filed at the same time as the certificate it revises, and
 - (c) has the same force and effect, and all proceedings may be taken on the certificate, as if it were a judgment of the court in favour of the government for the recovery of a debt in the amount specified in the certificate against the person named in the certificate.

Alternate remedies

62 (1) Remedies available to the government for the recovery of an amount owing under this Act may be exercised separately, concurrently or cumulatively.

(2) The liability of a person for the payment of an amount owing under this Act is not affected by a fine or penalty imposed on or paid by the person for contravention of this Act.

Attachment of funds

63 (1) In this section, "taxpayer" means any person who is liable to pay or remit an amount under this Act.

(2) If the director knows or suspects that a person is or is about to become indebted or liable to make a payment to a taxpayer, the director may demand that that person pay all or part of the money otherwise payable to the taxpayer to the government on account of the taxpayer's liability under this Act.

(3) Without limiting subsection (2), if the director knows or suspects that a person is about to advance money to, or make a payment on behalf of a taxpayer, or make a payment in respect of a negotiable instrument issued by a taxpayer, the director may demand that that person pay to the government on account of the taxpayer's liability under this Act the money that would otherwise be advanced or paid.

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

- (a) personal service,
- (b) registered mail, or

(c) electronic mail or fax.

(5) If, under this section the director demands that a person pay to the government, 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) is applicable 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 government out of each payment of the amount stipulated by the director in the demand.

(6) 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 the taxpayer in the taxpayer's capacity as a trustee.

(7) A demand under this section continues in effect until

(a) the demand is satisfied, or

(b) 90 days after the demand is served,

whichever is earlier.

(8) Despite subsection (7), if a demand is made in respect of a periodic payment referred to in subsection (5), 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 at the end of that period.

(9) Money demanded from a person by the director 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.

(10) A person who fails to comply with a demand under subsection (2) or (5) is liable to pay to the government an amount equal to the amount that the person was required to pay under subsection (2) or (5).

(11) A person who fails to comply with a demand under subsection (3) 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 to pay under subsection (3).

(12) The receipt of the director for money paid under this section is a sufficient discharge of the original liability to the extent of the payment.

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

Lien

64 (1) In this section:

"amount owing" means an amount remaining unpaid or unremitted, any related penalty and any interest on that amount and the penalty;

"associated corporation" means a corporation that is

(a) associated with another corporation within the meaning of section 256 of the Income Tax Act (Canada), or

(b) determined under subsection (11) of this section to be associated with another corporation for the purposes of this section;

"collateral" has the same meaning as in the Personal Property Security Act;

"financing statement" has the same meaning as in the Personal Property Security Act;

"inventory" has the same meaning as in the Personal Property Security Act;

"personal property registry" means the registry under the Personal Property Security Act;

"proceeds" has the same meaning as in the Personal Property Security Act;

"property", when referring to the property of an associated corporation or a related individual, means property that is used in, or in conjunction with, the business in respect of which the amount referred to in subsection (2) is required to be collected, remitted or paid;

"purchase money security interest" has the same meaning as in the Personal Property Security Act;

"related individual" has the same meaning as in the Property Transfer Tax Act;

"security interest" has the same meaning as in the Personal Property Security Act.

(2) If a person is required to pay or remit an amount to the government under this Act and does not pay or remit the amount, the director may register a lien

(a) against the real property of

(i) the person,

(ii) an associated corporation of the person, or

(iii) a related individual of the person

by registering a certificate of lien in the prescribed form in the appropriate land title office in the same manner that a charge is registered under the Land Title Act, and

(b) against the personal property of

(i) the person,

(ii) an associated corporation of the person, or

(iii) a related individual of the person

by registering a financing statement in the personal property registry.

(3) On registration of a certificate of lien against the real property of a person under subsection (2) (a), a lien is created on the real property against which the lien is registered for the amount owing.

(4) On registration of a lien against the personal property of a person under subsection (2) (b), a lien is created on the present and after acquired personal property in which the person has a legal or equitable interest, including, in the case of a lien referred to in paragraph (a) of this subsection, any portion of the property that is subject to a prior lien or security interest, for the following:

(a) if the lien relates to

(i) taxes that were required to be collected before registration,

(ii) amounts that were collected but not remitted before registration, or

(iii) security that was required to be paid before registration,

the amount remaining uncollected, unremitted or unpaid, any related penalty and any interest on that amount and the penalty;

(b) any amount, other than an amount referred to in paragraph (a), owing by the person under this Act.

(5) Subject to subsections (6) and (7), a lien, other than a lien referred to in subsection (4) (b), that is registered under subsection (2) (b) against personal property

(a) is not limited to the equity that the person against whose personal property the lien is registered has in the personal property, and

(b) despite the provisions of any other enactments, has priority over a security interest or other lien, whether or not the security interest or other lien existed before the lien was registered under subsection (2) (b).

(6) A lien registered under subsection (2) (b) against personal property does not have priority over

(a) a security interest that secures unpaid wages under section 87 (3) of the Employment Standards Act, regardless of when that security interest arises, or

(b) a purchase money security interest in collateral other than collateral that at the time the purchase money security interest attaches is inventory or its proceeds.

(7) If

(a) one or more liens are registered under subsection (2) (b) against the personal property of a person, and

(b) the property referred to in paragraph (a) of this subsection is subject to

(i) a security interest perfected under the Personal Property Security Act before the registration of the first lien under subsection (2) (b), or

(ii) another lien created before the registration of the first lien under subsection (2) (b),

the total amount secured by all the liens registered under subsection (2) (b), other than liens referred to in subsection (4) (b), is limited in amount, with respect to all the prior security interests or other liens referred to in paragraph (b) of this subsection, to the sum of the amount of

(c) taxes remaining uncollected or unremitted, or both, that were required to be collected or were collected by the person for the 6 months before the date of the most recent registration of a lien under subsection (2) (b), any related penalty and any interest on that amount and the penalty, and

(d) security remaining unpaid that was required to be paid by the person for the 6 months before the date of the most recent registration of a lien under subsection (2) (b), any related penalty and any interest on that amount and the penalty.

(8) In relation to a certificate of lien registered under subsection (2) (a) against the real property of a person, the director may register a certificate of lien in the form prescribed for the purposes of subsection (2) (a) in the appropriate land title office in the same manner that a charge is registered under the Land Title Act if

(a) the certificate of lien registered under subsection (2) (a) against the real property of the person contains a statement of the amount owing, and

(b) the director is satisfied that the amount referred to in paragraph (a) of this subsection that is stated in that certificate of lien is incorrect.

(8.1) In relation to a financing statement registered under subsection (2) (b) against the personal property of a person, the director may register a financing change statement, as defined in the Personal Property Security Act, in the personal property registry if

(a) the financing statement registered under subsection (2) (b) against the personal property of the person contains a statement of the amount owing, and

(b) the director is satisfied that the amount referred to in paragraph (a) of this subsection that is stated in that financing statement is incorrect.

(8.2) A certificate of lien registered under subsection (8) and a financing change statement registered under subsection (8.1) must contain a revised statement of the amount owing.

(8.3) On registration of a certificate of lien against the real property of a person under subsection (8), the certificate of lien registered under subsection (2) (a) against the real property of the person is, at the same time it was originally registered, deemed to be revised to set out the amount owing as stated in the certificate of lien registered under subsection (8).

(8.4) On registration of a financing change statement against the personal property of a person under subsection (8.1), the financing statement registered under subsection (2) (b) against the personal property of the person is, at the same time it was originally registered, deemed to be revised to set out the amount owing as stated in the financing change statement registered under subsection (8.1).

(9) Despite section 71 (1), the director must,

(a) on the oral or written request of a person, disclose in writing the amount of the lien under this section registered against the personal or real property of the person, or

(b) on the written request of a person accompanied by the written consent of a named person, disclose in writing the amount of the lien under this section registered against the personal or real property of the named person.

(10) If the director believes that one corporation is associated with another corporation within the meaning of section 256 of the Income Tax Act (Canada), the director may request one or both of the corporations to provide to the director the records and information required by the director to confirm or rebut that belief.

(11) The director may determine that corporations are associated corporations for the purposes of this section if

(a) a corporation that has been requested to provide records or information to the director under subsection (10) fails or refuses to comply with that request within a period of time considered by the director to be reasonable in the circumstances, or

(b) the records or information provided to the director under this section confirm the director's belief that the corporations are associated.

(12) Immediately after a corporation is determined under this section to be associated with a person referred to in subsection (2) (a) (i) and (b) (i), the director

(a) must notify the corporation of this in writing, and

(b) may register a lien under this section against the real and personal property of the corporation.

(13) The director may seize personal property against which a lien is registered under subsection (12) at any time after the registration of the lien, but must not take any action to realize on those assets until the later of

(a) the date that is 90 days after the date on which the notice required under subsection (12) (a) was sent to the corporation, and

(b) if a notice of appeal is served on the minister in respect of the determination within the time provided by section 56 (3), the date on which the minister upholds the determination under that appeal.

(14) If, at any time, the director becomes convinced that the corporations were not associated within the meaning of section 256 of the Income Tax Act (Canada) at the time that the lien was registered under subsection (12) (b) of this section or if the minister or a court of competent jurisdiction upholds the corporation's appeal against the director's determination on the basis that the corporations were not associated at the time that the lien was registered, the director must,

(a) if the director has not realized on any of the assets against which the lien was registered, promptly release the lien, and

(b) if the director has realized on some or all of the assets against which the lien was registered, promptly release the lien against the remaining assets and pay the proceeds realized from the sale of the realized assets, minus any costs or expenses incurred in the sale

(i) to the corporation, or

(ii) if the director considers it appropriate to do so, into the Supreme Court under Rule 10-3 of the Supreme Court Civil Rules.

(15) The release of the lien under subsection (14) (a) or the release of the lien and payment of the applicable net sale proceeds under subsection (14) (b) is deemed to be full satisfaction of all claims any person, including the corporation, might have arising out of or in any way connected with the determination made under subsection (11), the registration of the lien or the seizure or sale of any or all of the assets against which the lien was registered.

Responsibility of person having control of property

65 (1) In this section, "secured party" has the same meaning as in the Personal Property Security Act.

(2) This section applies to a person who, as assignee, liquidator, administrator, receiver, receiver manager, trustee, secured party or similar person, other than a trustee appointed under the Bankruptcy and Insolvency Act (Canada), takes control or possession of the property of a person who has collected tax or an amount as if it were tax or is required to collect tax, remit an amount or pay security under this Act.

(3) Before distributing the proceeds from the realization of the property referred to in subsection (2), a person to whom this section applies must obtain from the director a certificate that the amount that constituted a lien under section 64 has been paid.

(4) If a person to whom this section applies distributes the proceeds from the realization of the property referred to in subsection (2), without having obtained the certificate required by subsection (3), the person is personally liable to the government for an amount equal to the amount required to be paid to obtain the certificate.

(5) An amount payable under subsection (4) in respect of a distribution of the proceeds from the realization of property must be paid on or before the last day of the month after the month in which the disposition occurred.

Notice of enforcement proceedings

66 (1) Before taking proceedings for the recovery of an amount owing under this Act, the director must give to the person who owes the amount notice of the director's intention to enforce payment.

(2) Failure to give notice under subsection (1) does not affect the validity of proceedings taken for the recovery of an amount owing under this Act.

Limitation period

67 (1) In this section, "collection proceeding" means

- (a) an action for the recovery of an amount owing to the government under section 60,
- (b) the filing of a certificate under section 61,
- (c) the making of a demand under section 63, and
- (d) the registration or enforcement of a lien under section 64.

(2) A collection proceeding may be commenced at any time within 7 years after the date of the notice of assessment for the amount claimed in the collection proceeding.

(3) Despite subsection (2), a collection 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.

(4) If, before the expiry of the limitation period that applies under subsection (2) to an amount claimed, a person acknowledges liability in respect of the amount claimed, the date of the notice of assessment is deemed to be the day on which the acknowledgement is made.

(5) Subsection (4) does not apply to an acknowledgement, other than an acknowledgement referred to in subsection (6), unless the acknowledgement is

- (a) in writing,
- (b) signed, by hand or by electronic signature within the meaning of the Electronic Transactions Act,
- (c) made by the person making the acknowledgement or the person's agent, and
- (d) made to the government or an agent of the government.

(6) In the case of an amount claimed to which the limitation period under subsection (2) applies, for the purposes of subsection (4), part payment of the amount by the person against whom the claim is or may be made or by the person's agent is an acknowledgement by the person against whom the claim is or may be made of liability in respect of the claim.

(7) Section 24 (2), (4) and (10) of the Limitation Act applies for the purposes of this section.

(8) The liability of a person for the payment of an amount owing to the government under this Act is not affected by the expiry of the limitation period that applies under subsection (2) to the amount claimed.

Application for injunction

68 The director may apply to the Supreme Court for an injunction ordering a person who sells or offers to sell fuel in British Columbia to cease selling or offering to sell fuel until the person complies with this Act and the regulations and the person's obligations under this Act are fulfilled.

Part 10 — General

Appointment of director

69 The minister may appoint a person as director for the purpose of administering this Act.

Delegation

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

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

(3) Without limiting subsection (1), the director's powers and duties with respect to IFTA commercial vehicles to which this Act applies may be delegated by the director to a named person or class of persons in a government corporation, as defined in the Financial Administration Act, or a ministry of the government.

Confidentiality

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

(a) in the course of administering or enforcing this or another taxation 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) under an agreement that

(i) is between the government and another government,

(ii) relates to the administration or enforcement of taxation enactments, and

(iii) provides for disclosure of information and records to and the exchange of similar information with that other government, or

(e) for the purpose of the compilation of statistical information by the government or the government of Canada.

(2) The prohibition in subsection (1) does not apply in respect of the names and addresses of collectors.

Demand for information

72 (1) For any purpose related to the administration or enforcement of this Act or the regulations, the director may, by demand notice, require from any person

(a) a return,

(b) any information or additional information,

(c) the production of any records, or

(d) a written statement.

(2) A demand notice under subsection (1)

(a) must be delivered to the person by personal service, registered mail, electronic mail or fax,

(b) must specify a reasonable time by which the person must comply with the demand notice, and

(c) in relation to a requirement under subsection (1) (d), may require the written statement to be made by way of affidavit or statutory declaration.

(3) A person to whom a demand notice is delivered under this section must comply with the notice within the time specified in the notice.

(4) Under this Act, an affidavit by the director in which are stated the facts necessary to establish

(a) compliance by the director with this section, or

(b) default by a person on whom a demand was made under this section

must be admitted as evidence in any court and is proof, in the absence of evidence to the contrary, of the facts stated.

Service of notices

73 (1) If service of a notice or other document by the director is required or authorized under this Act, the notice or document is conclusively deemed to have been served if

(a) served on the person,

(b) sent by registered mail to the last known address of the person according to the records of the director, or

(c) sent by electronic mail or fax to the last known electronic mail address or fax number of the person according to the records of the director.

(2) If service of a notice or other document on the minister is required or authorized under this Act, the notice or document is conclusively deemed to have been served if delivered to the office of the deputy minister.

(3) If service under subsection (1) is by registered mail, electronic mail or fax, the notice or document is conclusively deemed to be served when sent.

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

(5) If persons carry on business in partnership, the notice or document may be addressed to the partnership name and, in the case of personal service, is deemed to have been validly served if it was served on one of the partners or left with an adult employed at the place of business of the partnership.

(6) In the case of personal service, a notice or document is deemed to have been validly served

(a) on a corporation, if it was delivered to any board member, senior officer, liquidator or receiver manager of the corporation, and

(b) on an extraprovincial corporation, if it was delivered to a person referred to in paragraph (a) or to an attorney for the extraprovincial corporation.

(7) Proof of the receipt by a person of any document or notice may be established in any court by showing that the document or notice was served or sent in a manner provided in this section, and the burden of proof is on the person seeking to establish the fact that the document or notice was not received by the person.

(8) In a prosecution or any proceeding for any matter arising under this Act, the facts necessary to establish compliance on the part of the director with this section may be sufficiently proved in any court by the production of an affidavit of the director setting out the facts.

Conversion of measurement

74 For the purpose of determining the amount of tax that is payable under this Act, the director may establish a formula for converting a measure of an amount of a fuel or combustible into a different measure of the amount of the fuel or combustible.

Part 11 — Offences and Penalties

Offences

75 (1) A person who contravenes section 71 (1) commits an offence and is liable to a fine of not more than \$2 000.

(2) A person who does any of the following commits an offence:

(a) makes or participates in, assents to or acquiesces in the making of a false or deceptive statement in a return, certificate or form required to be made or filed under this Act;

(b) in order to evade payment of an amount to be paid or remitted under this Act, destroys, alters, mutilates, hides or otherwise disposes of a record or book of account;

(c) makes or assents to or acquiesces in the making of a false or deceptive entry in a record or book of account, or omits or assents to or acquiesces in the omitting to enter in a record or book of account a material particular related to an amount to be paid or remitted under this Act;

(d) refuses to produce records or books of account or hinders or molests or interferes with an inspection, audit or examination, or prevents or attempts to prevent a person from carrying out an inspection, audit or examination under this Act;

(e) wilfully, in any manner, fails to comply with this Act or the regulations;

(f) wilfully, in any manner, evades or attempts to evade compliance with this Act or the regulations or remittance or payment of taxes or payment of security required under this Act;

(g) conspires with any person to do anything described in paragraphs (a) to (f).

(3) A person who commits an offence under subsection (2) is liable

(a) to a fine of not more than \$10 000 or to imprisonment for not more than 2 years or to both fine and imprisonment, and

(b) in addition, to a fine equal to the amount of any tax or security not collected, remitted or paid.

(4) In a prosecution under subsection (2), a certificate signed by the director stating the amount of tax or security referred to in subsection (3) (b) is evidence of the amount of tax or security referred to in subsection (3) (b).

(5) A penalty under this section is in addition to any other penalty under this Act.

Onus of proof

76 In a prosecution for failure to collect, remit or pay an amount under this Act, the onus is on the accused to prove that the amount was collected by the accused or was paid or remitted, as the case may be, to the government.

Analyst and certificate of analyst

77 (1) In this section, "analyst" means a person designated as an analyst under subsection (2).

(2) The director may designate a person as an analyst for the purpose of the enforcement of this Act.

(3) In a prosecution under this Act, a certificate of an analyst stating that the analyst has analyzed or examined a substance submitted to the analyst and stating the results of the analysis or examination is evidence of the statements contained in the certificate.

(4) The party against whom a certificate of an analyst is produced under subsection (3) may, with leave of the court, require the attendance of the analyst for the purpose of cross examination.

(5) A certificate must not be received in evidence under subsection (3) unless the party intending to produce it has, before the trial, given to the party against whom it is intended to be produced reasonable notice of that intention together with a copy of the certificate.

Evidence

78 (1) In a prosecution, evidence that a person applied to be appointed a collector or applied to obtain a registration certificate, registered consumer certificate, registered air service certificate or registered marine service certificate is evidence that the person is appointed as a collector or holds the certificate for which the person applied.

(2) In a prosecution, a notice of assessment is evidence that the amount stated in the notice of assessment is due and owing.

Offence by corporation

79 If a corporation commits an offence under this Act, an employee, officer, board member or agent of the corporation who authorized, permitted or acquiesced in the offence also commits that offence, whether or not the corporation is prosecuted or convicted.

Time limit on prosecution

80 No prosecution for an offence against this Act or the regulations may be instituted more than 6 years after the day the alleged offence was committed.

Section 5 of the Offence Act

81 Section 5 of the Offence Act does not apply to this Act or the regulations.

Part 12 — Regulations

Definition

82 In this Part, "greenhouse gas" has the same meaning as in the Greenhouse Gas Reduction Targets Act.

Repealed

83 [Repealed 2008-40-83(6).]

Regulations

84 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

(2) The Lieutenant Governor in Council may make regulations respecting any matter for which regulations by the Lieutenant Governor in Council are contemplated by this Act.

(3) Without limiting this section, the Lieutenant Governor in Council may make regulations, including regulations that are considered necessary as a result of an amendment to Schedule 1 or 2, as follows:

(a) prescribing records to be kept by vendors, wholesale dealers, retail dealers, collectors, deputy collectors, persons who sell fuel in sales to which section 1.1 (2) (a) to (c) applies, registered consumers, registered air services, registered marine services, motive fuel user permit holders and persons who are required to file returns for the payment of tax under this Act;

(b) requiring a person who sells fuel to furnish prescribed information to the person who buys the fuel in prescribed circumstances;

(c) respecting the duties of vendors, wholesale dealers, retail dealers, collectors, deputy collectors, registered consumers, registered air services, registered marine services and persons who are required to file returns for the payment of tax under this Act;

(c.1) setting conditions or limitations on the application of section 1.1 (2) (a) to (c) to a sale;

(c.2) respecting the minimum amount prescribed for a prescribed type of fuel, a prescribed subcategory of a type of fuel or a prescribed class of fuel for the purposes of section 1.1 (3) (a) (ii);

(d) respecting the manner of payment, collection and remittance of tax and payment of security and any other conditions or requirements affecting the payment, collection and remittance of tax or security;

(e) establishing, for the purposes of section 13, an amount of tax payable, or a method for determining the amount of tax payable, for a blend or mixture;

(f) respecting the payment of an allowance under section 35, including, without limitation, the following:

- (i) determining the amount of an allowance;
- (ii) determining the circumstances in which an allowance or a portion of an allowance is not to be paid;
- (iii) establishing a manner of payment of an allowance;
- (g) defining a word or expression used but not defined in this Act;
- (h) for the purpose of the definition of "use", prescribing circumstances in which a type of activity is a use;
- (i) establishing a system of permits for retail dealers, wholesale dealers and vendors who sell a fuel on which tax is not payable under this Act and, without limitation, for the purpose of establishing a system of permits, may also
 - (i) prohibit these dealers and vendors from acquiring and selling the fuel on which tax is not payable under this Act in British Columbia unless authorized by a permit,
 - (ii) prohibit persons from selling the fuel on which tax is not payable under this Act to these dealers and vendors unless the dealer or vendor is authorized to sell that fuel by a permit,
 - (iii) provide for the issue, refusal to issue, suspension and cancellation of the permits by the director, and
 - (iv) provide for appeals from a decision related to a permit;
- (j) with respect to refunds under paragraph (l), (n) or (o), may, without limiting those provisions, do the following:
 - (i) permit or require the payment of a refund to a person or a class of persons;
 - (ii) establish circumstances in which a refund may or must be paid;
 - (iii) set conditions of, or limitations on, the payment of a refund;
- (k) with respect to granting exemptions under paragraph (m), (n) or (o), may, without limiting those provisions, do the following:
 - (i) provide a full or partial exemption from the payment, collection or remittance of tax or security under one of more provisions of this Act;
 - (ii) establish circumstances in which an exemption applies;
 - (iii) set conditions of, or limitations on, the application of an exemption;
- (l) providing for refunds of all or part of a tax, security or other amount paid or remitted under this Act;
- (m) providing for exemptions from one or more provisions of this Act;
- (n) providing for exemptions from the payment of tax, or for refunds of all or part of the tax paid, with respect to a fuel or combustible that is a source for greenhouse gas emissions of a regulated operation

under the Greenhouse Gas Industrial Reporting and Control Act that has a compliance obligation as defined in that Act;

(o) providing for exemptions from the payment of tax, or for refunds of all or part of the tax paid, with respect to a fuel or combustible that

(i) is used to operate equipment that captures and stores, or captures and sequesters, greenhouse gas in accordance with the regulations, or

(ii) does not or did not emit greenhouse gas into the atmosphere when the fuel or combustible is or was used, as a result of the greenhouse gas being captured and stored, or captured and sequestered, in accordance with the regulations;

(o.1) respecting the provision of biomethane credits, including, without limitation, the following:

(i) limiting the retail dealers of natural gas or classes of retail dealers of natural gas, to whom section 14.1 applies;

(ii) limiting the purchasers or classes of purchasers, to whom section 14.1 applies;

(iii) establishing circumstances in which biomethane credits must or must not be provided;

(iv) setting conditions or limitations on the provision of biomethane credits;

(v) respecting the duties of retail dealers of natural gas who are required to provide biomethane credits;

(o.2) respecting refunds under section 14.2, including, without limitation, the following:

(i) establishing circumstances in which refunds must or must not be paid;

(ii) setting conditions or limitations on the payment of refunds;

(iii) respecting the repayment of refunds to the government by retail dealers of natural gas;

(p) prescribing interest rates and the manner of calculating interest for the purposes of this Act;

(q) respecting fees for certificates under sections 53 and 65, including setting the fee and time and manner of payment of the fee;

(r) respecting appeals to the minister under section 56, including, without limitation, establishing circumstances in which an appeal to the minister under section 56 (2) is not permitted;

(r.1) providing for suspension and cancellation by the director of motive fuel user permits held by persons who refuse or neglect to comply with a requirement of the director to deposit a bond under section 59;

(s) respecting duties of persons that own or operate IFTA commercial vehicles to which this Act applies, including, without limitation,

(i) the payment and refund of deposits, and

(ii) authorizing the director to determine the amount of deposits;

(t) establishing circumstances in which a retail dealer is exempt from the requirement to collect tax and permitting the director to establish rules for the collection of tax in those circumstances;

(u) respecting applications for a refund under section 41;

(v) respecting the exemption under section 14 (2) (g), including, without limitation, the following:

(i) establishing circumstances in which the exemption applies;

(ii) setting conditions of, or limitations on, the application of the exemption;

(w) respecting refunds under section 39.1, including, without limitation, the following:

(i) establishing circumstances in which refunds must or must not be paid;

(ii) setting conditions of, or limitations on, the payment of refunds.

(4) For the purposes of a regulation under subsection (3) (p), interest may be calculated in a manner that applies, or has the effect of applying, different rates of interest to all or part of an assessment if a person is entitled to a refund under this Act.

(5) In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:

(a) delegate a matter to a person;

(b) confer a discretion on a person;

(c) make different regulations for different persons, fuels, combustibles, places, things, uses or transactions, or classes of persons, fuels, combustibles, places, things, uses or transactions;

(d) establish or define classes of persons, fuels, combustibles, places, things, uses or transactions.

(6) [Repealed 2008-40-84(7).]

(6.1) A regulation made before December 31, 2009 under section 21 or 39 or subsection (3) (g), (j), (k), (l) or (m) of this section may be made retroactive to July 1, 2008 or a later date, and if made retroactive is deemed to have come into force on the specified date.

(6.2) A regulation made before December 31, 2009 under subsection (3) (i) (iv) of this section may be made retroactive to September 2, 2009 or a later date, and if made retroactive is deemed to have come into force on the specified date.

(6.3) A regulation that relates to Division 2 of Part 4 made before December 31, 2011 under this section may be made retroactive to February 16, 2011 or a later date, and if made retroactive is deemed to have come into force on the specified date.

(6.4) A regulation made before December 31, 2012 under this section in relation to section 1.1 may be made retroactive to May 1, 2012 or a later date, and if made retroactive is deemed to have come into force on the specified date.

(6.5) A regulation made before July 1, 2014 under this section in relation to section 8.1, 14 (2) (g) or 39.1 may be made retroactive to January 1, 2014 or a later date, and if made retroactive is deemed to have come into force on the specified date.

(7) [Repealed 2012-8-16.]

Repealed

85 [Repealed 2008-40-85(4).]

Part 13 — Transitional Provisions

Division 1 — Carbon Tax Act

Transition — imposition of tax on purchase

86 (1) If a purchaser buys fuel before July 1, 2008 and the purchaser receives delivery of the fuel on or after that date, the purchaser must pay to the government tax on the fuel at the rate for that type of fuel set out in the column of the Table in Schedule 1 that applies for the period of time in which the purchaser receives delivery.

(2) If a retail dealer sells a fuel to a purchaser before July 1, 2008 and the purchaser receives delivery of the fuel on or after that date, the retail dealer must collect tax on that fuel at the rate for that type of fuel set out in the column of the Table in Schedule 1 that applies for the period of time in which the purchaser receives delivery.

(3) A reference to "purchaser" in this section does not include a person who is a registered consumer with respect to the type or subcategory of a type of fuel specified on that person's registered consumer certificate.

Transition — imposition of tax on use

87 (1) Subject to subsection (2), a person who uses a fuel on or after July 1, 2008 is not required to pay tax on the use of the fuel under section 11, if tax was paid on the fuel under section 86 or if the fuel was, before that date,

(a) bought and received,

(b) transferred, or

(c) brought into British Columbia

within the meaning of section 8, 9 or 10.

(2) Subsection (1) does not apply to a registered consumer who uses fuel on or after July 1, 2008 if the fuel used is the type or subcategory of a type specified on the registered consumer certificate of the registered consumer.

(3) Section 11 applies to a registered consumer referred to in subsection (2) even if the fuel used by the registered consumer was, before July 1, 2008,

(a) bought and received,

(b) transferred, or

(c) brought into British Columbia

within the meaning of section 8, 9 or 10.

Transition — change in rate of tax and payment of security

88 (1) If

(a) a deputy collector or retail dealer owns fuel on July 1, 2008, and

(b) security would have been payable by the deputy collector or retail dealer if this Act were in force on the date the deputy collector or retail dealer bought the fuel,

the deputy collector or retail dealer must provide to the director by August 15, 2008 an inventory of that fuel, in accordance with the instructions of the director.

(2) For the purposes of subsection (1), if a retail dealer entered into an agreement to sell fuel to a purchaser before July 1, 2008 and the purchaser has not received delivery of the fuel before July 1, 2008, the retail dealer is deemed to own the fuel.

(3) For the purposes of subsection (1), a deputy collector or retail dealer, as the case may be, who meets the requirements of paragraphs (a) to (c), is deemed to own a fuel on July 1, 2008 if

(a) the deputy collector or retail dealer has entered into an agreement to buy the fuel and the agreement provides that the deputy collector or retail dealer owns the fuel on July 1, 2008,

(b) the deputy collector or the retail dealer has not received delivery of the fuel before July 1, 2008, and

(c) the deputy collector or the retail dealer has not entered into an agreement with another person that provides that the other person owns the fuel on July 1, 2008.

(4) Subject to the regulations, the director may pay an allowance of \$250 to a deputy collector or retail dealer who provided an inventory by August 15, 2008 under subsection (1).

(5) Subject to the regulations, a deputy collector or retail dealer who is required to provide an inventory under subsection (1) must pay to the director by August 15, 2008 the amount of security on fuel included in the inventory equal to the tax that would be collectable if the fuel were sold to a purchaser on July 1, 2008.

Transition — fixed-price contracts

89 (1) Subject to subsection (2), if, on or after July 1, 2008 a purchaser takes delivery of fuel and pays to the government tax on the purchase of the fuel under this Act, the director, on application and on receipt of evidence satisfactory to the director, must pay to the purchaser, from the consolidated

revenue fund, a refund of tax paid if the delivery is taken, under a fixed-price contract made by the purchaser with the seller before February 20, 2008, in respect of a quantity of fuel that does not exceed the quantity specified in the contract.

(2) No refund is to be paid under subsection (1) if the purchaser

(a) is entitled, under the fixed-price contract, to recover the tax on the fuel imposed under this Act, or

(b) receives delivery of the fuel after June 30, 2009.

Division 2 — Motor Fuel Tax Act

Transition — collector

90 (1) Effective on July 1, 2008, a person who, immediately before that date, was a collector appointed under section 28 (1) or 32 (2) of the Motor Fuel Tax Act, as those provisions read before the date this Act receives Royal Assent, is deemed to be appointed as a collector under section 28 of the Motor Fuel Tax Act, as enacted by this Act.

(2) An appointment deemed to be made under subsection (1) has a term that ends on the date that is the earliest of the following:

(a) the end of the day on December 31, 2008;

(b) the date the deemed appointment as a collector is suspended or cancelled under the Motor Fuel Tax Act, as amended by this Act;

(c) the date the person is appointed as a collector under section 28, as enacted by this Act.

(3) If the appointment of a person as a collector under section 28 (1) or 32 (2) of the Motor Fuel Tax Act, as those provisions read before the date this Act receives Royal Assent, is subject to terms and conditions, the deemed appointment of a person as a collector under subsection (1) of this section is subject to the same terms and conditions, unless the director specifies different terms and conditions.

(4) If the appointment of a person as a collector under section 28 (1) or 32 (2) of the Motor Fuel Tax Act, as those provisions read before the date this Act receives Royal Assent, is not subject to terms and conditions, the director may specify terms and conditions for the deemed appointment of the person as a collector under subsection (1) of this section.

Transition — relabelling of fuel

91 If, at the time section 110 of this Act comes into force, a person was appointed as a collector under section 29 (2) of the Motor Fuel Tax Act, as it read before the coming into force of section 110, the person is deemed to be authorized to sell a substance as a type of fuel in circumstances in which the person bought the substance as another type of fuel, subject to the conditions the director specifies, if any, until the date that is earliest of the following:

- (a) the end of the day on December 31, 2008;
- (b) the date the authorization is suspended or cancelled by the director;
- (c) the date the person is
 - (i) appointed as a collector under section 28 of the Motor Fuel Tax Act, as enacted by this Act, or
 - (ii) authorized by the director, under section 29 (2) of the Motor Fuel Tax Act, as enacted by this Act.

Transition — registered consumer

92 (1) Effective on July 1, 2008, a person who, immediately before that date, was a registered consumer, as defined in section 1 of the Motor Fuel Tax Act as it read before the coming into force of section 98 of this Act, is deemed to have been issued a registered consumer certificate under section 37 of the Motor Fuel Tax Act, as enacted by this Act.

(2) The certificate deemed to be issued under subsection (1) has a term that ends on the date that is the earliest of the following:

- (a) the end of the day on December 31, 2008;
- (b) the date the deemed registered consumer certificate is suspended or cancelled under the Motor Fuel Tax Act, as amended by this Act;
- (c) the date the person is issued a registered consumer certificate under section 37 of the Motor Fuel Tax Act, as enacted by this Act.

(3) If a person holds a registered consumer certificate under section 37 of the Motor Fuel Tax Act, as it read before the coming into force of section 118 of this Act, that is subject to terms and conditions, the deemed registered consumer certificate under subsection (1) is subject to the same terms and conditions, unless the director specifies different terms and conditions.

(4) If a registered consumer certificate issued to a person under section 37 the Motor Fuel Tax Act, as it read before the coming into force of section 118 of this Act, is not subject to terms and conditions, the director may specify terms and conditions for the registered consumer certificate that is deemed to be issued to the person under subsection (1).

Transition — imposition of tax

93 If a retail dealer sells fuel to a licensed carrier before July 1, 2008 and the licensed carrier receives delivery of the fuel on or after that date, the retail dealer must collect tax on that fuel at the rate that applies at the time the licensed carrier receives delivery of the fuel.

Transition — refunds

94 The Motor Fuel Tax Act, as it read immediately before the date this Act receives Royal Assent, continues to apply to

(a) an application for a refund received by the director under that Act, and

(b) an action commenced under that Act

before July 1, 2008.

Transition — penalty for failure to remit tax or pay security

95 The director may impose a penalty on a person referred to in section 45 of the Motor Fuel Tax Act, as amended by section 128 of this Act, in respect of a failure by the person to remit tax or pay security before July 1, 2008.

Part 14 — Consequential Amendments

Consequential Amendments

[Note: See Table of Legislative Changes for the status of sections 96 to 156.]

Section(s)	Affected Act
96	British Columbia Railway Act
97	Financial Administration Act
98-154	Motor Fuel Tax Act

Amendments to this Act

Section(s)	Affected Act
155-156	Carbon Tax Act

Commencement

157 The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item Column 1

Provisions of Act Column 2

Commencement

- 1 Anything not elsewhere covered by this table July 1, 2008
- 2 Section 16 June 1, 2008
- 3 Sections 19 to 22 June 1, 2008
- 4 Section 97 By regulation of the Lieutenant Governor in Council, which may be made to bring section 97 into force on or after July 1, 2008
- 5 Sections 155 and 156 January 1, 2009

Schedule 1

Interpretation

1 (1) In this Schedule:

"aviation fuel" means a substance suitable to power an aircraft that is not propelled by a turbine;

"biodiesel" means a substance that is made up of mono-alkyl esters of long chain fatty acids derived from plant or animal matter;

"diesel engine" means an internal combustion engine, including a stationary engine, in which internal combustion is initiated by compression;

"gas liquids" means a mixture of two or more of ethane, propane, butane or pentanes plus, whether in gaseous or liquid form, that

(a) is obtained from the processing of natural gas or crude oil, and

(b) has never been processed into separate identifiable fuels,

but does not include a mixture of ethane, propane, butane or pentanes plus that is created after the ethane, propane, butane or pentanes plus have been processed into separate identifiable fuels and then remixed into a blend of one or more of the fuels;

"gasoline" means a substance suitable for generating power by means of an internal combustion engine, other than a diesel engine, but does not include any other fuel;

"heavy fuel oil" means a substance that is a distillate or a residual of crude oil and that has a viscosity of greater than 14 centistokes at 50°C;

"high heat value coal" means bituminous coal and any other coal with a heating value greater than 27 000 kJ per kg;

"hydrogenated-derived renewable diesel fuel" means a substance that is made from plant or animal matter using a hydrogenation process;

"internal combustion engine" includes a turbine engine that generates power by the use of fuel;

"jet fuel" means a substance suitable to power an aircraft that is propelled by a turbine;

"light fuel oil" means a substance that is

- (a) a distillate of crude oil that has a viscosity of not greater than 14 centistokes at 50°C,
- (b) renewable diesel fuel, or
- (c) a combination of substances including the substances referred to in paragraphs (a) and (b), and is suitable

(d) for generating power by means of a diesel engine, or

(e) for use in a furnace, boiler or open flame burner,

but does not include butane, ethane, gas liquids, jet fuel, kerosene, naphtha, propane, pentanes plus or refinery gas;

"low heat value coal" means sub-bituminous coal and any other coal with a heating value up to and including 27 000 kJ per kg;

"natural gas" means natural gas, whether or not the natural gas

(a) occurs naturally or results from processing, or

(b) contains gas liquids,

but does not include refinery gas;

"pentanes plus" means pentane, heavier hydrocarbons or a combination of both, but does not include any other fuel;

"refinery gas" means gas for use in an oil refinery that is produced as a result of distillation, cracking, reforming or other oil refining processes;

"renewable diesel fuel" means

(a) biodiesel fuel, or

(b) hydrogenated-derived renewable diesel fuel;

"standard reference conditions" means, in the case of

(a) a gas, a temperature of 15°C and an atmospheric pressure of 101.325 kPa, and

(b) a liquid, a temperature of 15°C.

(2) For calculating the amount of tax payable for a fuel set out in column 2 of the Table, when the rate of tax is based on litres, the rate of tax must be multiplied by the amount of liquids or gaseous fuels measured in litres at standard reference conditions.

(3) For calculating the amount of tax payable for a fuel set out in column 2 of the Table, when the rate of tax is based on cubic metres, the rate of tax must be multiplied by the amount of liquids or gaseous fuels measured in cubic metres at standard reference conditions.

(4) For the purpose of calculating the amount of tax payable for a fuel set out in column 2 of the Table,

(a) gas liquids are a separate fuel when the gas liquids are separated from natural gas or crude oil for the first time as a result of processing and have not been

(i) separated into ethane, propane, butane or pentanes plus as a result of processing, or

(ii) separated into ethane, propane, butane or pentanes plus as a result of processing and then remixed into a blend of one or more of the fuels, and

(b) ethane, propane, butane and pentanes plus are separate fuels when they have been processed and are identifiable as separate fuels as a result of processing.

Table

Column

- 1 Column
- 2 Column
- 3 Column
- 4 Column
- 5 Column
- 6 Column
- 7 Column
- 8

Item Type of Fuel Rate of tax for the year starting July 1, 2008 Rate of tax for the period starting July 1, 2009 and ending December 31, 2009 Rate of tax for the period starting January 1, 2010 and ending June 30, 2010 Rate of tax for the year starting July 1, 2010 Rate of tax for the year starting July 1, 2011 Rate of tax for the year starting July 1, 2012 and each subsequent year starting July 1

1	Aviation Fuel 7.38 ¢/L	2.46 ¢/L	3.69 ¢/L	3.69 ¢/L	4.92 ¢/L	6.15 ¢/L
2	Gasoline 6.67 ¢/L	2.34 ¢/L	3.51 ¢/L	3.33 ¢/L	4.45 ¢/L	5.56 ¢/L
3	Heavy Fuel Oil 9.45 ¢/L	3.15 ¢/L	4.73 ¢/L	4.73 ¢/L	6.30 ¢/L	7.88 ¢/L
4	Jet Fuel ¢/L	2.61 ¢/L	3.92 ¢/L	3.92 ¢/L	5.22 ¢/L	6.53 ¢/L 7.83
5	Kerosene 7.83 ¢/L	2.54 ¢/L	3.81 ¢/L	3.81 ¢/L	5.22 ¢/L	6.53 ¢/L
6	Light Fuel Oil 7.67 ¢/L	2.69 ¢/L	4.04 ¢/L	3.84 ¢/L	5.11 ¢/L	6.39 ¢/L
7	Methanol 3.27 ¢/L	1.09 ¢/L	1.64 ¢/L	1.64 ¢/L	2.18 ¢/L	2.73 ¢/L
8	Naphtha 7.65 ¢/L	2.55 ¢/L	3.83 ¢/L	3.83 ¢/L	5.10 ¢/L	6.38 ¢/L

9	Butane	1.76 ¢/L	2.64 ¢/L	2.64 ¢/L	3.52 ¢/L	4.40 ¢/L	5.28 ¢/L
10	Coke Oven Gas	1.61 ¢/m3 4.83 ¢/m3	2.42 ¢/m3	2.42 ¢/m3	3.22 ¢/m3	4.03 ¢/m3	
11	Ethane	0.98 ¢/L	1.47 ¢/L	1.47 ¢/L	1.96 ¢/L	2.45 ¢/L	2.94 ¢/L
12	Propane	1.54 ¢/L 4.62 ¢/L	2.31 ¢/L	2.31 ¢/L	3.08 ¢/L	3.85 ¢/L	
13	Natural Gas	1.90 ¢/m3 5.70 ¢/m3	2.85 ¢/m3	2.85 ¢/m3	3.80 ¢/m3	4.75 ¢/m3	
14	Refinery Gas	1.76 ¢/m3 5.28 ¢/m3	2.64 ¢/m3	2.64 ¢/m3	3.52 ¢/m3	4.40 ¢/m3	
15	High Heat Value Coal	20.77 \$/tonne 51.93 \$/tonne	31.16 \$/tonne	31.16 \$/tonne	31.16 \$/tonne	41.54 \$/tonne	
16	Low Heat Value Coal	17.77 \$/tonne 44.43 \$/tonne	26.66 \$/tonne	26.66 \$/tonne	26.66 \$/tonne	35.54 \$/tonne	
17	Coke	24.87 \$/tonne 74.61 \$/tonne	37.31 \$/tonne	37.31 \$/tonne	49.74 \$/tonne	62.18 \$/tonne	
18	Petroleum Coke	3.67 ¢/L 11.01 ¢/L	5.51 ¢/L	5.51 ¢/L	7.34 ¢/L	9.18 ¢/L	
19	Gas Liquids		2.48 ¢/L	3.30 ¢/L	4.13 ¢/L	4.95 ¢/L	
20	Pentanes Plus		2.64 ¢/L	3.52 ¢/L	4.40 ¢/L	5.28 ¢/L	

Schedule 2

Table

Column

- 1 Column
- 2 Column
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6 Column

7

Item	Type of Combustible	Rate of tax for the year starting on July 1, 2008	Rate of tax for the year starting on July 1, 2009	Rate of tax for the year starting on July 1, 2010	Rate of tax for the year starting on July 1, 2011	Rate of tax for the year starting on July 1, 2012 and each subsequent year starting on July 1
1	Peat	10.22 \$/tonne	15.33 \$/tonne	20.44 \$/tonne	25.55 \$/tonne	30.66 \$/tonne
2	Tires — Shredded	23.91 \$/tonne	35.87 \$/tonne	47.82 \$/tonne	59.78 \$/tonne	71.73 \$/tonne
3	Tires — Whole	20.80 \$/tonne	31.20 \$/tonne	41.60 \$/tonne	52.00 \$/tonne	62.40 \$/tonne

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