

CHAPTER 258

The Logging Tax Act

1. In this Act,

Interpre-
tation

- (a) "logging operations" includes the sale of standing timber, the sale of the right to cut standing timber, the sale of logs, the delivery of logs to a sawmill, pulp or paper plant or other place for processing or manufacturing, the delivery of logs to a carrier for export, the export of logs, the acquisition of standing timber, the acquisition of the right to cut standing timber, the cutting of logs from standing timber, the acquisition of logs, the import of logs, and the transportation of logs, or any combination of such operations;
- (b) "Minister" means the Minister of Revenue;
- (c) "taxation year" means the calendar year or, where the fiscal year of the taxpayer does not coincide with the calendar year, the fiscal year ending within the calendar year;
- (d) "taxpayer" means an individual, partnership, association, syndicate or corporation that engages in logging operations in Ontario, and includes the heirs, executors, administrators, trustees and agents, as the case may be, of any of them;
- (e) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1960, c. 224, s. 1, *amended*.

2.—(1) Every taxpayer shall for every taxation year pay a tax of 10 per cent on the income in excess of \$10,000 that he derives during such year from logging operations. R.S.O. 1960, c. 224, s. 2 (1); 1962-63, c. 77, s. 1 (1).

(2) There may be deducted from the tax otherwise payable by a taxpayer under this section for a taxation year an amount equal to 10 per cent of that portion of his income from logging operations in excess of \$10,000 that is earned in the taxation year outside Ontario. R.S.O. 1960, c. 224, s. 2 (2); 1962-63, c. 77, s. 1 (2).

(3) The amount of income that shall be deemed to be earned outside Ontario for a taxation year is the total of,

- (a) that proportion of the difference between the income

derived from logging operations by the taxpayer for the taxation year and the total of,

- (i) the difference between the amount for which the taxpayer sold standing timber during the taxation year and the cost of acquisition thereof, and
- (ii) the difference between the amount for which the taxpayer sold the right to cut standing timber during the taxation year and the cost of acquisition thereof,

that the quantity of logs cut or acquired by the taxpayer outside Ontario is of the total quantity of logs cut or acquired by the taxpayer during the taxation year; and

- (b) the difference between the amount for which the taxpayer sold standing timber situated outside Ontario during the taxation year and the cost of acquisition thereof; and
- (c) the difference between the amount for which the taxpayer sold the right to cut standing timber situated outside Ontario during the taxation year and the cost of acquisition thereof. R.S.O. 1960, c. 224, s. 2 (3).

Operations
by same
taxpayer

(4) For the purposes of determining liability to taxation under this Act, all logging operations owned, leased, worked or operated by the same taxpayer, or the income from which accrues to the same taxpayer, shall be deemed to be and be dealt with as one and the same logging operation and not as separate logging operations.

Affiliated
corporations

(5) Where logging operations are carried on by two or more affiliated or associated corporations that are under the same general control, or where the income of such corporations accrues for the benefit of substantially the same shareholders, the income derived from the logging operations by each of such corporations shall be determined in accordance with sections 3 and 4, and the incomes thereof, after having been so determined, shall be combined and dealt with for the purpose of section 2 as though they were the income of one and the same taxpayer. 1962-63, c. 77, s. 1 (3).

Interpre-
tation

3. In this Act, "income derived from logging operations" means the net profit or gain of the taxpayer during the taxation year determined by deducting from the value of the logs disposed of, the total cost to him of,

- (a) the acquisition of standing timber;
- (b) the acquisition of the right to cut standing timber;
- (c) cutting logs from standing timber;
- (d) the acquisition of logs;

- (e) the import of logs; and
- (f) the transportation of logs,

but excluding from such total cost any amount withdrawn by any individual or any member of a partnership, syndicate or association as salary or other remuneration if such individual, partnership, syndicate or association is a taxpayer. R.S.O. 1960, c. 224, s. 3.

4. In this Act, "value of logs disposed of" means,

Interpre-
tation

- (a) in the case of the sale of standing timber, the amount for which the taxpayer sold it;
- (b) in the case of the sale of the right to cut standing timber, the amount for which the taxpayer sold such right whether on a stumpage, royalty or other basis used in calculating such amount;
- (c) in the case of the sale of logs, the amount for which the taxpayer sold them;
- (d) in the case of the delivery of logs to a sawmill, pulp or paper plant or place for processing logs operated by the taxpayer wherein the logs are processed or manufactured into a product, the difference between,
 - (i) the sale value of such product,

and the total of,

- (ii) the cost of such processing or manufacturing, including capital cost allowances with respect to machinery, equipment, plant, buildings, works and improvements used therein and all charges relating to such processing or manufacturing except amounts withdrawn by any individual or any member of a partnership, syndicate or association as salary or other remuneration if such individual or partnership, syndicate or association is a taxpayer and except taxes payable under this Act, that would be deductible in computing the income of the taxpayer from such processing or manufacturing under Divisions A and B of Part III of *The Corporations Tax Act* and the regulations made thereunder if those Divisions were applicable to the taxpayer, and
- (iii) an amount by way of return of capital employed by the taxpayer in processing or manufacturing logs equal to 8 per cent of the original cost to him of the depreciable assets used by him in such processing or manufacturing, including machinery, equipment, plant, buildings, works and improvements, but such amount shall not be less than 35 per cent or

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more than 65 per cent of an amount equal to the difference between the income derived by him from all sources, measured in accordance with Divisions A and B of Part III of *The Corporations Tax Act* but before the deduction under that Act of any tax payable under this Act, and the total of,

- (A) the returns received by him by way of dividends, interest or other like payments from stocks, shares, debentures, loans or other like investments, and
- (B) the net profit, if any, derived by him from and attributable in accordance with sound accounting principles to the carrying on of any business or derived from and so attributable to any source other than logging operations and the processing or manufacturing of logs, and
- (C) the net profit, if any, derived by him under clauses *a*, *b* and *c*,

and, whether such processing or manufacturing is within or outside Ontario,

- (iv) the cost of transportation of the logs from the point of delivery to a carrier to the point of delivery to the sawmill, pulp or paper plant or other place used for the processing or manufacturing of the logs.
- R.S.O. 1960, c. 224, s. 4; 1962-63, c. 77, s. 2.

Inadequate
consideration

5.—(1) Where a taxpayer purchases anything from a person with whom he is not dealing at arm's length at a price in excess of the fair market value, the fair market value thereof shall, for the purpose of computing the income of the taxpayer under sections 3 and 4, be deemed to have been paid or to be payable therefor.

Idem

(2) Where a taxpayer sells anything to a person with whom he is not dealing at arm's length at a price less than the fair market value, the fair market value thereof shall, for the purpose of computing the income of the taxpayer under sections 3 and 4, be deemed to have been received or to be receivable therefor.

Idem

(3) Where a taxpayer pays or agrees to pay to a person with whom he is not dealing at arm's length as price, royalty, rental or other payment for use or reproduction of any property an amount computed at a rate higher than that at which similar payments by other persons in the same kind of business are computed, an amount computed at the rate at which similar payments are made by such other persons shall, for the purpose of computing the income of the taxpayer under sections 3 and 4, be deemed to have been the amount that is paid or is payable therefor.

(4) Where a taxpayer is an incorporated company and directly or indirectly distributes to its shareholders any of its property either on winding up, or otherwise, for no consideration or for a consideration below the fair market value, if the sale thereof at the fair market value would have increased the income of the taxpayer under sections 3 and 4, it shall be deemed, for the purpose of determining such income, to have sold the property during the taxation year and to have received therefor the fair market value thereof. Idem

- (5) For the purpose of this section, Arm's length
- (a) a corporation and a person or one of several persons by whom it is directly or indirectly controlled;
 - (b) corporations controlled directly or indirectly by the same person; or
 - (c) persons connected by blood relationship, marriage or adoption,

shall, without extending the meaning of the expression "to deal with each other at arm's length", be deemed not to deal with each other at arm's length. R.S.O. 1960, c. 224, s. 5.

6.—(1) A return of the income of each taxpayer for each taxation year shall, without notice or demand therefor, be filed with the Minister containing such information as is required, Return

- (a) in the case of a corporation, by or on behalf thereof, within six months from the end of the taxation year;
- (b) in the case of a person who has died without making the return, by his legal representatives, within six months from the day of death;
- (c) in the case of an estate or trust, within ninety days from the end of the taxation year;
- (d) in the case of any other taxpayer, on or before the 30th day of April in the next year, by that taxpayer or, if he is unable for any reason to file the return, by his guardian, committee or other legal representative; or
- (e) in the case where no person described by clause *a*, *b*, *c* or *d* has filed the return, by such person as is required by notice in writing from the Minister to file the return, within such reasonable time as the notice specifies. R.S.O. 1960, c. 224, s. 6 (1), *amended*.

(2) Every person, whether or not he is liable to pay tax under this Act for a taxation year and whether or not he has filed a return under subsection 1, shall upon receipt at any time of a demand therefor in writing from the Minister, file forthwith with the Minister a return of his income for that year, containing such information as is required. R.S.O. 1960, c. 224, s. 6 (2), *amended*. Demand for return

- Trustees,
etc. (3) Every trustee in bankruptcy, assignee, liquidator, receiver, trustee or committee and every agent or other person administering, managing, winding up, controlling or otherwise dealing with the property, business, estate or income of a taxpayer who has not filed a return for a taxation year as required by this section shall file a return of the income of such taxpayer for that year.
- Death of a
partner or
proprietor (4) Where a taxpayer who is a partner in or who is a proprietor of a business engaged in logging operations in Ontario died after the close of a taxation year but before the end of the calendar year in which the taxation year closed, a separate return of the taxpayer's income after the close of the taxation year to the time of death shall be filed and the tax payable under this Act shall be paid thereon as if that income were the income of another taxpayer. R.S.O. 1960, c. 224, s. 6 (3, 4).
- Extension (5) The Minister may at any time extend the time for making a return under this Act. R.S.O. 1960, c. 224, s. 6 (5), *amended*.
- Estimate
of tax **7.** Every taxpayer required by section 6 to file a return shall estimate in the return the amount of tax payable. R.S.O. 1960, c. 224, s. 7.
- Assessment
of tax **8.**—(1) The Minister shall, with all due despatch, examine each return and assess the tax for the taxation year and the interest and penalties, if any, payable.
- Notice of
assessment (2) After examination of a return, the Minister shall send a notice of assessment to the person by whom the return was filed.
- Liability for
tax not
affected (3) Liability for tax under this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.
- Reassess-
ment, etc. (4) The Minister, may, at any time, assess tax, interest or penalties and may,
 - (a) at any time, if the taxpayer or person filing the return has made any misrepresentation or committed any fraud in filing the return or supplying information under this Act; and
 - (b) within six years from the day of an original assessment in any other case,
reassess or make additional assessments.
- Minister
not bound
by return (5) The Minister is not bound by a return or information supplied by or on behalf of a taxpayer and, in making an assessment, may, notwithstanding a return or information so supplied or if no return has been filed, assess the tax payable under this Act.

(6) An assessment shall, subject to being varied or vacated on appeal under this Act and subject to reassessment, be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. R.S.O. 1960, c. 224, s. 8, *amended*.

Errors,
etc.

9.—(1) The taxes imposed by this Act shall be deemed to be due on the last day of the taxation year of the taxpayer for which such taxes are imposed.

Taxes,
when to
accrue

(2) Every taxpayer on which a tax is imposed by this Act shall pay,

Dates of
payment

- (a) not later than the close of the taxation year in respect of which the tax is payable, an amount equal to one-half of the tax as estimated by him for the last preceding taxation year or for the taxation year in respect of which the tax is payable, at the rate applicable for such last-mentioned taxation year;
- (b) not later than the fifteenth day of the third month following the month in which the taxation year in respect of which the tax is payable closed, an amount equal to the balance of the tax as so estimated; and
- (c) at the time of making the return under subsection 1 of section 6, the balance, if any, of the tax payable as estimated by the taxpayer in the return.

(3) Where the amount paid on account of tax payable by a taxpayer for a taxation year before the expiration of the time allowed for filing his return under section 6 is less than the amount of tax payable for the taxation year, the taxpayer liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for filing the return to the date of payment at the rate of 6 per cent per annum.

Interest on
unpaid tax

(4) Where a taxpayer being required by subsection 2 to pay a part or instalment of tax has failed to pay all or any part thereof as required, the taxpayer, in addition to the interest payable under subsection 3, shall pay interest on the amount he failed to pay at 6 per cent per annum from the day on or before which he was required to make the payment to the day of payment or the beginning of the period in respect of which he became liable to pay interest thereon under subsection 3, whichever is earlier.

Idem

(5) For the purposes of subsection 4, the taxpayer shall be deemed to have been liable to pay a part or instalment under subsection 2 computed by reference to the tax payable for,

Idem

- (a) the last preceding taxation year; or
- (b) the taxation year in respect of which the tax is payable, whichever is lesser.

- Limitation on interest** (6) No interest under this section upon the amount by which the unpaid tax exceeds the amount estimated under section 7 is payable in respect of the period beginning twenty months after the day fixed by section 6 for filing the return with respect to which the taxes are payable or twenty months after the return was in fact filed, whichever was later, and ending thirty days from the date of the mailing of the notice of the original assessment for the taxation year. R.S.O. 1960, c. 224, s. 9.
- Penalty for default** **10.**—(1) When a taxpayer is in default in complying with subsection 1 of section 6, he is liable to a penalty of,
- (a) an amount equal to 5 per cent of the tax that was unpaid when the return was required to be filed, if the tax payable by him for the taxation year that was unpaid at that time was less than \$10,000; and
 - (b) \$500, if at the time the return was required to be filed, tax payable by him for the taxation year of \$10,000 or more was unpaid.
- Idem** (2) When a taxpayer fails to complete the information required on the return under subsection 1 of section 6, he is liable to a penalty of 1 per cent of the tax payable by him, but in no such case shall the penalty be less than \$1 or more than \$20. R.S.O. 1960, c. 224, s. 10.
- Payments on behalf of others** **11.**—(1) Every person required by section 6 to file a return for a taxpayer for a taxation year shall, within thirty days from the date of mailing of the notice of assessment, pay all taxes, penalties and interest payable by or in respect of that taxpayer to the extent that he has or had, at any time since the taxation year, in his possession or control, property belonging to that taxpayer or his estate and shall thereupon be deemed to have made that payment on behalf of the taxpayer. R.S.O. 1960, c. 224, s. 11 (1).
- Certificate before distribution** (2) Every assignee, liquidator, administrator, executor and other like person, other than a trustee in bankruptcy, before distributing any property under his control, shall obtain a certificate from the Minister certifying that there are not outstanding any taxes, interest or penalties that have been assessed under this Act and are chargeable against or payable out of the property. R.S.O. 1960, c. 224, s. 11 (2), *amended*.
- Liability** (3) Distribution of property without a certificate required by subsection 2 renders the person required to obtain the certificate personally liable for the unpaid taxes, interest and penalties. R.S.O. 1960, c. 224, s. 11 (3).
- Refunds** **12.**—(1) The Minister may, upon mailing the notice of assessment, refund, without application therefor, any overpayment made on account of the tax and he shall make such refund after

mailing the notice of assessment if application in writing is made therefor by the taxpayer within twelve months from the date the overpayment was made or the day on which the notice of assessment was sent.

(2) Instead of making a refund that might otherwise be made under this section, the Minister may, where the taxpayer is liable or about to become liable to make another payment under this Act, apply the amount of the overpayment to that other liability and notify the taxpayer of that action. R.S.O. 1960, c. 224, s. 12 (1, 2), *amended*. ^{Application to other taxes}

(3) Where an amount of \$50 or more in respect of an overpayment is refunded or applied on other liability under this section, interest shall be paid or applied for the period commencing, ^{Interest on overpayment}

- (a) six months from the day when the overpayment arose;
- (b) on the day on or before which the return in respect of which the tax was paid was required to be filed; or
- (c) on the day that the return was in fact filed,

whichever was later, and ending with the day of refunding or application aforesaid at the rate of 3 per cent per annum.

(4) For the purpose of this section, "overpayment" means the aggregate of all amounts paid on account of tax minus all amounts payable under this Act or an amount so paid when no amount is so payable. R.S.O. 1960, c. 224, s. 12 (3, 4). ^{Interpretation}

13.—(1) Every taxpayer shall keep records and books of account at his place of business or at such other place as is designated by the Minister, in such form and containing such information as will enable the taxes payable under this Act to be determined. ^{Records and books}

(2) Where a taxpayer has failed to keep adequate records and books of account for the purposes of this Act, the Minister may require him to keep such records and books of account as he specifies and the taxpayer shall thereafter keep records and books of account as so required. ^{Idem}

(3) Every taxpayer required by this section to keep records and books of account shall, until written permission for their disposal is obtained from the Minister, retain every such record or book of account and every account or voucher necessary to verify the information in any such record or book. R.S.O. 1960, c. 224, s. 13, *amended*. ^{Idem}

14.—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may, at all reasonable times, enter into any premises or place where any business is carried on or any property is kept or ^{Investigation}

anything is done in connection with any business or any books or records are, or should be, kept pursuant to this Act, and

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of tax payable under this Act;
- (b) examine property described by an inventory or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act;
- (c) require the taxpayer or manager of the property or business being examined and any other person on the premises or place to give him all reasonable assistance with his audit or examination and to answer all proper questions relating to the audit or examination either orally or, if he so requires, in writing on oath or by statutory declaration and, for that purpose, require the taxpayer or other person to attend at the premises or place with him; and
- (d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act, seize and take away any of the books, records, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

Demand for
information,
etc.

(2) The Minister may, for the purposes related to the administration or enforcement of this Act, by registered mail or by demand served personally, require from any person,

- (a) any information or additional information, including a return or a supplementary return; or
- (b) production or production on oath of any books, letters, accounts, invoices, financial or other statements or other documents,

within such times as are stipulated therein.

Inquiry

(3) The Minister may authorize any person to make such inquiry as the Minister considers necessary with reference to anything relating to the administration or enforcement of this Act.

Copies

(4) Where any book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced or any officer of the Department of Revenue may make or cause to be made one or

more copies thereof and the document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if it had been proven in the ordinary way. R.S.O. 1960, c. 224, s. 14 (1-4), *amended*.

(5) No person shall hinder or molest or interfere with any person doing anything that he is authorized by or pursuant to this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall do everything he is required by or pursuant to this section to do. Compliance

(6) For the purpose of an inquiry under subsection 3, the person authorized to make the inquiry has all the powers that may be conferred upon a commissioner appointed under *The Public Inquiries Act*. R.S.O. 1960, c. 224, s. 14 (5, 6). Powers
R.S.O. 1970,
c. 379

15.—(1) Any taxpayer who objects to an assessment under this Act may, within sixty days from the date of the mailing of the notice of assessment, by himself or by his solicitor, serve a notice of appeal on the Minister. Notice of
appeal

(2) The notice of appeal shall be served by sending it by registered mail addressed to the Minister. R.S.O. 1960, c. 224, s. 16 (1, 2), *amended*. Service

(3) The notice of appeal shall follow Form 1 to this Act as closely as may be and shall set out clearly the reasons for appeal and all facts relative thereto. R.S.O. 1960, c. 224, s. 16 (3). Form of
notice of
appeal

16. Upon receipt of the notice of appeal, the Minister shall duly consider it, affirm or amend the assessment appealed against, and notify the appellant of his decision by registered mail. R.S.O. 1960, c. 224, s. 17, *amended*. Decision
of the
Minister

17.—(1) If the appellant, after receipt of the decision, is dissatisfied therewith, he may, within sixty days from the date of the mailing of the decision, send to the Minister by registered mail a notice of dissatisfaction. R.S.O. 1960, c. 224, s. 18 (1), *amended*. Notice of
dissatis-
faction

(2) The notice of dissatisfaction shall follow Form 2 to this Act as closely as may be and shall state that the appellant desires that his appeal be set down for trial. Form of
notice of
dissatis-
faction

(3) The appellant shall forward with the notice of dissatisfaction a final statement of such further facts, statutory provisions and reasons that he intends to submit to the court in support of the appeal as were not included in the notice of appeal, or in the Statement
with notice

alternative, a recapitulation of all facts, statutory provisions and reasons included in the notice of appeal, together with such further facts, provisions and reasons as the appellant intends to submit to the court in support of the appeal. R.S.O. 1960, c. 224, s. 18 (2, 3).

Security

18.—(1) The appellant shall thereupon give security in the sum of \$400 or such other sum as the Minister requires for the costs of the appeal in a form satisfactory to the Minister, but in lieu of other security the appellant may pay into court the sum of \$200 or such other sum as the Minister requires, in which case the appellant shall, when paying such sum in, state the purpose for which it is paid in and shall forthwith serve a notice on the Minister specifying the fact and purpose of the payment. R.S.O. 1960, c. 224, s. 19 (1), *amended*.

Proceedings
voided

(2) Unless such security is furnished by the appellant within thirty days after the mailing of the notice of dissatisfaction, the appeal and all proceedings thereunder are void. R.S.O. 1960, c. 224, s. 19 (2).

Decision
upon
receipt of
statement
of facts

19. Upon receipt of the notice of dissatisfaction and statement of facts, the Minister shall send by registered mail to the appellant a reply admitting or denying the facts alleged and confirming or amending the assessment or any amended, additional or subsequent assessment. R.S.O. 1960, c. 224, s. 20, *amended*.

Copy of
documents
to be filed

20.—(1) Within sixty days from the date of the mailing of the reply, the Minister shall cause to be transmitted to the Registrar of the Supreme Court or the local registrar of the court for the county or district in which the appellant has his office or transacts business, to be filed in the court, copies of,

- (a) the return of the appellant, if any, for the taxation year under review;
- (b) the notice of assessment appealed;
- (c) the notice of appeal;
- (d) the decision;
- (e) the notice of dissatisfaction;
- (f) the reply; and
- (g) all other documents and papers relative to the assessment under appeal. R.S.O. 1960, c. 224, s. 21 (1), *amended*.

Matter
deemed
action

(2) The matter shall thereupon be deemed to be an action in the court and shall be set down for trial forthwith by the Registrar or local registrar, as the case may be, and thereafter shall be proceeded with in the same manner as an action commenced in the court, but the court or a judge may at any time before the

commencement of the trial make such other order relating to the delivery of pleadings as is considered proper.

(3) The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every such action, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court. R.S.O. 1960, c. 224, s. 21 (2, 3). Supreme Court practice to govern

21. All subsequent proceedings shall be entitled: Title of cause
In re The Logging Tax Act and the appeal of
 of in the
 Province of

and notice and copies of all further proceedings shall be served on the Minister. R.S.O. 1960, c. 224, s. 22, *amended*.

22.—(1) After an appeal has been set down for trial, any fact or statutory provision not set out in the notice of appeal or notice of dissatisfaction may be pleaded or referred to in such manner and upon such terms as the court or a judge thereof directs. R.S.O. 1960, c. 224, s. 23 (1). Conditional limitations of evidence

(2) The court may refer the matter back to the Minister for further consideration. R.S.O. 1960, c. 224, s. 23 (2), *amended*. Matter may be referred back to Minister

23. Subject to this Act, the Supreme Court has exclusive jurisdiction to hear and determine all questions that arise in connection with any assessment made under this Act, and in delivering judgment may make any order as to the payment of any tax, interest or penalty or as to costs as to the court seems right and proper. R.S.O. 1960, c. 224, s. 24. Jurisdiction of court

24. An assessment shall not be varied or disallowed because of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision up to the date of the issue of the notice of assessment. R.S.O. 1960, c. 224, s. 25. Irregularities

25. Any such proceedings before the Supreme Court hereunder shall be held *in camera* upon request made to the court by any party to the proceedings. R.S.O. 1960, c. 224, s. 26. Proceedings in camera

26. If a notice of appeal is not served or a notice of dissatisfaction is not mailed within the time limited therefor, the right of the taxpayer assessed to appeal ceases and the assessment is valid and binding notwithstanding any error, defect or omission therein or in any proceedings required by this Act. R.S.O. 1960, c. 224, s. 27. Right of appeal barred

- 27.** All taxes, interest, penalties, costs and other amounts payable under this Act are debts due to Her Majesty in right of Ontario and are recoverable as such in any court of competent jurisdiction or in any other manner provided by this Act. R.S.O. 1960, c. 224, s. 28.
- 28.** Where an amount payable under this Act has not been paid, the Minister may, upon the expiration of thirty days from the default, issue a warrant and may direct it to the sheriff of any county or district in which any property of the taxpayer is located or situated, for the amount of the tax, interest and penalty, or any of them, owing by the taxpayer to the Treasurer, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court. R.S.O. 1960, c. 224, s. 29, *amended*.
- 29.**—(1) When the Minister has knowledge or suspects that any person is or is about to become indebted or liable to make any payment to a taxpayer liable to make a payment under this Act, he may, by registered letter, require him to pay the moneys otherwise payable to that taxpayer in whole or in part to the Treasurer on account of the liability under this Act.
- (2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.
- (3) Every person who has discharged any liability to a taxpayer liable to make a payment under this Act without complying with a requirement under this section is liable to pay to Her Majesty in right of Ontario an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is lesser. R.S.O. 1960, c. 224, s. 30, *amended*.
- 30.** All taxes, interest, penalties, costs and other amounts payable under this Act are a first lien and charge upon the property in Ontario of the taxpayer liable to pay such taxes, interest, penalties, costs and other amounts. R.S.O. 1960, c. 224, s. 31.
- 31.** If any doubt or dispute arises as to the liability of any taxpayer to pay a tax or any part of a tax demanded under this Act, or, if owing to special circumstances, it is considered inequitable to demand payment of the whole amount imposed under this Act, the Minister may accept such amount as he considers proper, and if the tax demanded has been paid under protest, he may refund the amount paid or any part thereof. R.S.O. 1960, c. 224, s. 32, *amended*.

32.—(1) Every person who has failed to file a return or any information as and when required by or under this Act is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to a fine of \$25 for each day of default.

(2) Every person who has contravened section 13 or 14 is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to a fine of not less than \$200 and not more than \$10,000 or to imprisonment for a term of not more than six months, or to both.

- (3) Every person,
- (a) who has made, or participated in, assented to or acquiesced in the making of false or deceptive statements in a return, certificate, statement or answer filed or made as required by or under this Act;
 - (b) who has, to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a taxpayer;
 - (c) who has made, or assented to or acquiesced in the making of false or deceptive entries in records or books of account of a taxpayer;
 - (d) who has failed, or assented to or acquiesced in the failure, to enter a material particular in records or books of account of a taxpayer;
 - (e) who has wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
 - (f) who has conspired with any person to commit any offence under clauses *a* to *e*,

is guilty of an offence and, in addition to any penalty otherwise provided, on summary conviction is liable to a fine of not less than \$25 and not more than \$10,000 or to imprisonment for a term of not more than two years, or to both. R.S.O. 1960, c. 224, s. 33.

33.—(1) Every person who, while employed in the service of Her Majesty, has communicated or allowed to be communicated to a person not legally entitled thereto any information obtained under this Act, or has allowed any such person to inspect or have access to any written statement furnished under this Act, is guilty of an offence and liable on summary conviction to a fine of not more than \$200. R.S.O. 1960, c. 224, s. 34.

- (2) Notwithstanding subsection 1, the Minister may,
- (a) communicate or allow to be communicated information obtained under this Act; or

- (b) allow inspection of or access to any written statement furnished under this Act,

to any person employed by the Government of Canada or any province of Canada, provided that the information and written statements obtained by such government for the purpose of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Minister, and provided that the information and written statements will not be used for any purpose other than the administration or enforcement of a federal or provincial law that provides for the imposition of a tax. 1965, c. 65, s. 1, *amended*.

Declarations

34. Declarations or affidavits in connection with returns under this Act may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but a person so specially authorized shall not charge a fee therefor. R.S.O. 1960, c. 224, s. 35.

Information

35.—(1) An information under this Act may be laid or made by any officer of the Department of Revenue or by any person thereunto authorized by the Minister and, where an information purports to have been laid under this Act, it shall be deemed to have been laid by a person thereunto authorized by the Minister and shall not be called in question for lack of authority of the informant except by the Minister or by some person acting for him. R.S.O. 1960, c. 224, s. 36 (1), *amended*.

Two or more offences

(2) An information in respect of an offence under this Act may be for one or more than one offence and no information, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1960, c. 224, s. 36 (2).

Limitation of prosecution 1953-54, c. 51 (Can.)

(3) An information under Part XXIV of the *Criminal Code* (Canada) in respect of an offence under this Act may be laid on or before a day five years from the time when the matter of the information arose or within one year from the day on which evidence, sufficient in the opinion of the Minister to justify a prosecution for the offence, came to his knowledge, and his certificate as to the day on which such evidence came to his knowledge is conclusive evidence thereof.

Proof of service by mail

(4) Where by this Act provision is made for sending by mail a request for information, notice or demand, an affidavit of an officer of the Department of Revenue sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records, that he has knowledge of the facts in the particular case, that such a request, notice or demand was sent by registered letter on a named day to the

person to whom it was addressed, indicating such address, and that he identifies as exhibits attached to the affidavit the post-office certificate of registration of the letter or a true copy of the relevant portion thereof and a true copy of the request, notice or demand, shall be received as *prima facie* evidence of the sending of the request, notice or demand.

(5) Where by this Act a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Department of Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that after a careful examination and search of the records, he has been unable to find in a given case that the return, statement, answer or certificate, as the case may be, has been made by such person, shall be received as *prima facie* evidence that in such case that person did not make the return, statement, answer or certificate, as the case may be.

Proof of failure to comply

(6) Where by this Act a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Department of Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that, after careful examination of such records, he has found that the return, statement, answer or certificate was filed or made on a particular day, shall be received as *prima facie* evidence that it was filed or made on that day.

Proof of time of compliance

(7) An affidavit of an officer of the Department of Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that a document annexed thereto is a document or a true copy of a document made by or on behalf of the Minister or some person exercising the powers of the Minister or by or on behalf of the taxpayer, shall be received as *prima facie* evidence of the nature and contents of the document and is admissible in evidence and has the same probative force as the original document would have if it had been proven in the ordinary way.

Proof of documents

(8) An affidavit of an officer of the Department of Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and has knowledge of the practice of the Department and that an examination of the records shows that a notice of assessment for a particular taxation year was mailed to a taxpayer on a particular day pursuant to this Act and that, after careful examination and search of the records, he has been unable to find that a notice of appeal from the assessment or a notice of objection to the decision of the Minister was received within the time allowed therefor, shall be received as *prima facie* evidence of the statements contained therein.

Proof of no appeal

Presump-
tion

(9) Where evidence is offered under this section by an affidavit from which it appears that the person making the affidavit is an officer of the Department of Revenue, it is not necessary to prove his signature or that he is such an officer nor is it necessary to prove the signature or official character of the person before whom the affidavit was sworn. R.S.O. 1960, c. 224, s. 36 (3-9), *amended*.

Effect

36. This Act is effective with respect to the taxation years of taxpayers ending in 1949 and subsequent taxation years. R.S.O. 1960, c. 224, s. 37.

FORM 1

(Section 16 (3))

NOTICE OF APPEAL

In re *The Logging Tax Act* and
(Name of taxpayer)

of the of in the
(Address)

Province of Appellant

Notice of Appeal is hereby given from the assessment bearing date the day of 19..... wherein a tax of \$..... was levied in respect of income from logging operations in Ontario for the taxation of the year 19.....

Then follow with:

- 1. Full statement of facts.
- 2. Full statement of reason for appeal.

Dated this day of 19.....

.....
(Signature of Appellant)

R.S.O. 1960, c. 224, Form 1.

FORM 2

(Section 18 (2))

NOTICE OF DISSATISFACTION

In re *The Logging Tax Act* and the appeal of
(Name of taxpayer)

of the of in the
(Address)

Province of

I desire my appeal to be set down for trial.

Dated this day of 19.....

.....
(Signature)

R.S.O. 1960, c. 224, Form 2.