

Land Transfer Tax Act

R.S.O. 1990, CHAPTER L.6

Consolidation Period: From June 1, 2017 to the [e-Laws currency date](#).

Last amendment: 2017, c. 17, Sched. 1.

Legislative History: 1994, c. 18, s. 4; 1996, c. 18, s. 7-14; 1996, c. 24, s. 32; 1996, c. 29, s. 16-22; 1997, c. 10, s. 8-21; 1997, c. 19, s. 12; 1997, c. 43, Sched. F, s. 6; 1998, c. 5, s. 29, 30; 1998, c. 34, s. 87; 1999, c. 6, s. 32; 1999, c. 9, s. 133-135; 2000, c. 10, s. 19; 2000, c. 42, s. 67, 68; 2001, c. 23, s. 142-148; 2002, c. 22, s. 134, 135; 2004, c. 31, Sched. 21; 2005, c. 5, s. 36; 2005, c. 31, Sched. 13; 2006, c. 33, Sched. P; 2008, c. 7, Sched. K; 2011, c. 9, Sched. 22; 2012, c. 8, Sched. 29; 2014, c. 7, Sched. 16; 2015, c. 28, Sched. 1, s. 151; 2016, c. 37, Sched. 13; 2017, c. 8, Sched. 16; 2017, c. 17, Sched. 1.

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Interpretation

1 (1) In this Act,

“convey” includes the granting, assigning, releasing, surrendering, leasing or disposing of land in Ontario, agreeing to sell land in Ontario, or the giving of an option upon or with respect to any land in Ontario, or the registration of a caution or notice of any kind signifying the existence of an unregistered instrument or writing by which land is conveyed, whether the effect of any of the foregoing is to bring into existence an interest of any kind in land or is only for the purpose of giving effect to or formal recognition to any interest of whatsoever kind that theretofore existed in land, but “convey” does not include any transfer of land for the purpose only of securing a debt or loan, or any transfer by a creditor for the purpose only of returning land that had been used as security for a debt or loan; (“céder”)

“conveyance” includes any instrument or writing by which land is conveyed and includes a final order of foreclosure under any mortgage or charge affecting land and a caution or notice of any kind in writing signifying the existence of any instrument or writing by which land is conveyed; (“cession”)

“designated collector” means a person designated under subsection 5.1 (1); (“percepteur désigné”)

“designated land” means,

- (a) land that contains at least one and not more than six single family residences; and
- (b) such other land as may be prescribed by the Minister; (“bien-fonds désigné”)

“electronic document” means an electronic document as defined by section 17 of the *Land Registration Reform Act*; (“document électronique”)

“foreign corporation” means a corporation that is one of the following:

1. A corporation that is not incorporated in Canada.
2. A corporation, the shares of which are not listed on a stock exchange in Canada, that is incorporated in Canada and is controlled, directly or indirectly in any manner whatever, within the meaning of section 256 of the *Income Tax Act* (Canada), by one or more of the following:
 - i. A foreign national.
 - ii. A corporation that is not incorporated in Canada.
 - iii. A corporation that would, if each share of the corporation’s capital stock that is owned by a foreign national or by a corporation described in paragraph 1 were owned by a particular person, be controlled, directly or indirectly in any manner whatever, within the meaning of section 256 of the *Income Tax Act* (Canada), by the particular person; (“personne morale étrangère”)

“foreign entity” means a foreign corporation or a foreign national; (“entité étrangère”)

“foreign national” means an individual who is a foreign national as defined in subsection 2 (1) of the *Immigration and Refugee Protection Act* (Canada); (“étranger”)

“Greater Golden Horseshoe Region” means the area of land comprised of the geographic areas of the following municipalities:

1. City of Barrie.
2. County of Brant.
3. City of Brantford.
4. County of Dufferin.
5. Regional Municipality of Durham.
6. City of Guelph.
7. Haldimand County.
8. Regional Municipality of Halton.
9. City of Hamilton.

10. City of Kawartha Lakes.
11. Regional Municipality of Niagara.
12. County of Northumberland.
13. City of Orillia.
14. Regional Municipality of Peel.
15. City of Peterborough.
16. County of Peterborough.
17. County of Simcoe.
18. City of Toronto.
19. Regional Municipality of Waterloo.
20. County of Wellington.
21. Regional Municipality of York; (“région élargie du Golden Horseshoe”)

“land” includes lands, tenements and hereditaments and any estate, right or interest therein, a structure to be constructed on land as part of an arrangement relating to a conveyance of land, a leasehold interest or estate, the interest of an optionee, the interest of a purchaser under an agreement to sell land, or goodwill attributable to the location of land or to the existence thereon of any building or fixture, and fixtures; (“bien-fonds”)

“land registrar” means a land registrar to whom a conveyance is tendered for registration; (“registrateur”)

“Minister” means the Minister of Finance; (“ministre”)

“notice of any kind” includes a recital or reference made in any registered instrument; (“avis quelconque”)

“prescribed” means prescribed by regulations made under this Act; (“prescrit”)

“registration”, of a conveyance, means registration under the *Land Titles Act* or the *Registry Act*, and “registered” has a corresponding meaning; (“enregistrement”, “enregistré”)

“residential” means, when used in respect of land, the land adjacent to a building that is the main and principal residence of the occupants, whether as owners or tenants, and includes all immediately contiguous lands necessary and used for such residence; (“affecté à l’habitation”)

“single family residence” means a unit or proposed unit under the *Condominium Act, 1998* or a structure or part of a structure that is designed for occupation as the residence of a family, including dependants or domestic employees of a member of the family, whether or not rent is paid to occupy any part of it and whether or not the land on which it is situated is zoned for residential use and,

- (a) includes such a residence that is to be constructed as part of the arrangement relating to a conveyance, and
- (b) does not include such a residence that is constructed or is to be constructed on agricultural land that is eligible to be classified in the farm property class prescribed under the *Assessment Act*; (“habitation unifamiliale”)

“specified region” means,

- (a) the Greater Golden Horseshoe Region, except for any area of land in that Region that the Minister prescribes as excluded from the specified region; and
- (b) any other areas of land that the Minister prescribes as included in the specified region; (“région déterminée”)

“spouse” means spouse as defined in section 29 of the *Family Law Act*; (“conjoint”)

“tax” means the tax imposed by this Act and includes all penalties and interest that are or may be added to a tax under this Act; (“droits”)

“taxable trustee”, in relation to a conveyance of designated land, means a trustee of a trust with at least one trustee that is a foreign entity, or a trust with no foreign entity trustees if, immediately after the conveyance is tendered for registration, a beneficiary of the trust who is a foreign entity holds a beneficial interest in the designated land to which the conveyance relates, but does not include a trustee acting for the following types of trusts:

1. A mutual fund trust within the meaning of subsection 132 (6) of the *Income Tax Act* (Canada).

2. A real estate investment trust as defined in subsection 122.1 (1) of the *Income Tax Act* (Canada).

3. A SIFT trust as defined in subsection 122.1 (1) of the *Income Tax Act* (Canada); (“fiduciaire imposable”)

“transferee” includes a person to whom land is conveyed and any person whose interest in land is increased, created or given effect to as the result of a conveyance; (“cessionnaire”)

“transferor” includes any person making a conveyance of land to a transferee; (“cédant”)

“value of the consideration” includes,

- (a) the gross sale price or the amount expressed in money of any consideration given or to be given for the conveyance by or on behalf of the transferee and the value expressed in money of any liability assumed or undertaken by or on behalf of the transferee as part of the arrangement relating to the conveyance and the value expressed in money of any benefit of whatsoever kind conferred directly or indirectly by the transferee on any person as part of the arrangement relating to the conveyance,
- (b) in the case of a final order of foreclosure under any mortgage or charge affecting land, the lesser of,
 - (i) the value of the consideration determined under clause (a) plus the amount owed under the mortgage or charge at the time it is foreclosed, including principal, interest and all other costs and expenses other than municipal taxes, secured by the mortgage or charge and owing at the time plus the amount owing similarly calculated under any mortgage or charge that is subsequent in priority to the mortgage or charge in respect of which the final order of foreclosure is made and that is held by the mortgagee or chargee in whose favour the final order of foreclosure that is registered is made, or
 - (ii) an amount established to the satisfaction of the Minister to be equal to the fair market value of the land that is subject to the mortgage or charge,
- (b.1) in the case of a conveyance of land to the mortgagee or chargee under a mortgage or charge affecting the land when the conveyance is given in satisfaction of the amount owed under the mortgage or charge, the lesser of,
 - (i) the value of the consideration determined under clause (a) plus the amount owed under the mortgage or charge at the time the conveyance is made, including principal, interest and all other costs or expenses other than municipal taxes, secured by the mortgage or charge and owing at the time plus the amount owing similarly calculated under any other mortgage or charge that is subsequent in priority to the mortgage or charge in respect of which the conveyance is made, if that mortgage or charge is held by the mortgagee or chargee to whom the conveyance is made, or
 - (ii) an amount established to the satisfaction of the Minister to be equal to the fair market value of the land that is subject to the conveyance,
- (c) in the case where a lease of land, a transfer of the interest of a lessee under a lease of land, or a notice of any kind in writing signifying the existence of an unregistered lease of land or of an unregistered transfer of the interest of a lessee under a lease of land is not exempt from tax by virtue of subsection (6), the fair market value, ascertained as at the time of the tender or submission for registration, of the land to which the lease extends or of a smaller portion of such land if only such smaller portion is conveyed,
- (d) in the case of a caution or notice of any kind in writing signifying the existence of any unregistered instrument or writing by which land is conveyed and that is not a notice in writing described in clause (c), the value of the consideration determined under clause (a) or (b) for the land conveyed by the unregistered instrument or writing that is referred to in such caution or notice in writing that is not a notice in writing described in clause (c),
- (e) in the case of a conveyance of land from a trustee (whether or not the trustee is so described in the conveyance) to a person to whom or for whose benefit any equitable or beneficial interest in the land has been transferred by a conveyance or conveyances that have not been registered, the value of the consideration determined under clauses (a) to (d), whichever is applicable, in respect of the unregistered conveyances made to such person,
- (f) in the case of a conveyance of land from a trustee to another trustee (whether or not either trustee is so described in the conveyance) where,
 - (i) the person to whom or for whose benefit any equitable or beneficial interest in the land is held is not the same person to whom or for whose benefit any equitable or beneficial interest in the land was held by the trustee making the conveyance when that trustee first acquired legal interest in the land, and

- (ii) valuable consideration has been given by the transferee of an equitable or beneficial interest for the transfer of any equitable or beneficial interest in the land held by the trustee making the conveyance while that trustee was the holder of the legal interest in the land,

the fair market value, ascertained at the time of the tender or submission for registration, of the land to which the conveyance extends, or

- (g) in the case of a conveyance of land to a corporation where any part of the consideration consists of the allotment and issuance of the corporation's shares or in the case of a conveyance of land from a corporation to any of its shareholders the fair market value, ascertained at the time of the tender or submission for registration, of the land to which the conveyance extends. ("valeur de la contrepartie") R.S.O. 1990, c. L.6, s. 1 (1); 1994, c. 18, s. 4 (1-3); 1996, c. 18, s. 7 (1, 2); 1996, c. 29, s. 16 (1); 1997, c. 10, s. 8 (1, 2); 1999, c. 6, s. 32 (1); 2000, c. 42, s. 67; 2002, c. 22, s. 134; 2004, c. 31, Sched. 21, s. 1 (1, 2); 2005, c. 5, s. 36 (1); 2015, c. 28, Sched. 1, s. 151; 2017, c. 8, Sched. 16, s. 1; 2017, c. 17, Sched. 1, s. 1.

Tendering for registration

(1.1) For the purposes of this Act, a conveyance that is an electronic document is tendered for registration when it is submitted for registration in accordance with Part III of the *Land Registration Reform Act*, and a conveyance that is not an electronic document is tendered for registration when it is presented for registration at a land registry office. 2004, c. 31, Sched. 21, s. 1 (3).

Reduction of consideration, land taken under statutory authority

(2) Where it is established to the satisfaction of the Minister that land is being acquired by a person for the purpose of replacing land that was taken from the person under statutory authority, that was sold by the person to a person by whom notice of an intention to take the land under statutory authority was given, or that was sold by the person to a person having the power to take the land under statutory authority, and it is reasonable to assume in the case where the land is sold that, had the land not been sold, it would have been taken under statutory authority by the person to whom it is sold, the value of the consideration for the land being acquired shall be reduced by an amount equal to the compensation or proceeds of sale reasonably attributable to the land that was taken or sold. 1998, c. 5, s. 29.

Same, leasehold and freehold interests

(3) Where a person entitled to the leasehold interest in land acquires the freehold interest therein, the value of the consideration for the conveyance to the person of the freehold interest may be reduced by the amount of the value of the consideration for the conveyance by which the person acquired the leasehold interest if the value of that consideration was determined under clause (c) of the definition of "value of the consideration" in subsection (1) and tax was computed and paid with respect to the value of that consideration so determined, but the reduction shall not exceed the value of the consideration for the conveyance of the freehold interest. 1998, c. 5, s. 29.

(4) REPEALED: 1997, c. 10, s. 8 (3).

(5) REPEALED: 1997, c. 10, s. 8 (4).

No tax on certain leases

(6) Despite any other provision of this Act, no tax is payable on the tender or submission for registration of a conveyance that is a lease of land, the transfer of the interest of a lessee under a lease of land, or a notice of any kind in writing signifying the existence of a lease of land or of a transfer of the interest of a lessee under a lease of land if the lease, at the time the lease or transfer or notice of either of them is tendered or submitted for registration, is for an unexpired term that cannot exceed 50 years, including any renewals or extensions of the term provided for in the lease or in a separate option to lease or other document entered into as part of the arrangement relating to the lease (whether or not the lessee and the optionee or person named in the document are the same persons). 1994, c. 18, s. 4 (4); 1996, c. 18, s. 7 (3).

(7) REPEALED: 1997, c. 10, s. 8 (5).

Section Amendments with date in force (d/m/y)

1994, c. 18, s. 4 (1, 2) - 23/06/1994; 1994, c. 18, s. 4 (3) - 20/05/1993; 1994, c. 18, s. 4 (4) - 29/11/1993; 1996, c. 18, s. 7 (1-3) - 01/06/1996; 1996, c. 29, s. 16 (1) - 09/12/1996; 1997, c. 10, s. 8 (1-5) - 07/05/1997; 1998, c. 5, s. 29 - 07/05/1997; 1999, c. 6, s. 32 (1) - 01/03/2000

2000, c. 42, s. 67 - 01/01/1998

2002, c. 22, s. 134 - 01/01/2003

2004, c. 31, Sched. 21, s. 1 (1-3) - 16/12/2004

2005, c. 5, s. 36 (1) - 09/03/2005

2015, c. 28, Sched. 1, s. 151 - 03/12/2015

2017, c. 8, Sched. 16, s. 1 - 17/05/2017; 2017, c. 17, Sched. 1, s. 1 - 01/06/2017

Exemptions under other Acts

1.1 No person otherwise subject to tax under this Act is exempt therefrom by reason of an exemption granted to the person, or to or in respect of the personal or real property of the person, by or under any other Act, unless the other Act expressly mentions this Act. 2001, c. 23, s. 142.

Section Amendments with date in force (d/m/y)

2001, c. 23, s. 142 - 05/12/2001

Tax

2 (1) Every person who, on or after January 1, 2017, tenders for registration in Ontario a conveyance by which any land is conveyed to or in trust for a transferee shall pay when the conveyance is tendered for registration or before it is tendered for registration,

- (a) a tax computed at a rate of,
 - (i) one-half of 1 per cent of the value of the consideration for the conveyance up to and including \$55,000,
 - (ii) 1 per cent of the value of the consideration that exceeds \$55,000 up to and including \$250,000,
 - (iii) 1.5 per cent of the value of the consideration that exceeds \$250,000 up to and including \$400,000, and
 - (iv) 2 per cent of the value of the consideration that exceeds \$400,000; and
- (b) if the value of the consideration for the conveyance exceeds \$2,000,000 and the conveyance is a conveyance of land that contains at least one and not more than two single family residences, an additional tax of one-half of 1 per cent of the amount by which the value of the consideration exceeds \$2,000,000. 2016, c. 37, Sched. 13, s. 1 (1).

Same, registration prior to 2017

(1.1) Every person who, on or before December 31, 2016, tenders for registration in Ontario a conveyance by which any land is conveyed to or in trust for a transferee shall pay when the conveyance is tendered for registration or before it is tendered for registration,

- (a) a tax computed at a rate of,
 - (i) one-half of 1 per cent of the value of the consideration for the conveyance up to and including \$55,000,
 - (ii) 1 per cent of the value of the consideration that exceeds \$55,000 up to and including \$250,000, and
 - (iii) 1.5 per cent of the value of the consideration that exceeds \$250,000; and
- (b) if the value of the consideration for the conveyance exceeds \$400,000 and the conveyance is a conveyance of land that contains at least one and not more than two single family residences, an additional tax of one-half of 1 per cent of the amount by which the value of the consideration exceeds \$400,000. 2016, c. 37, Sched. 13, s. 1 (1).

Same, transition

(1.2) Despite subsection (1), every person who, pursuant to an agreement of purchase and sale entered into on or before November 14, 2016, tenders for registration in Ontario a conveyance by which any land is conveyed to or in trust for a transferee shall pay when the conveyance is tendered for registration or before it is tendered for registration a tax computed in accordance with subsection (1.1). 2016, c. 37, Sched. 13, s. 1 (1).

Apportionment of consideration

(2) Where, in respect of a conveyance of land,

- (a) REPEALED: 1997, c. 10, s. 9 (2).
- (b) the value of the consideration for the conveyance exceeds \$2,000,000 or, for a conveyance to which subsection (1.1) applies, exceeds \$400,000; and
- (c) a part of the land being conveyed is used for a purpose other than residential purposes,

the Minister may, to the extent that he or she considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the land used in connection with a single family residence, and

the person tendering the conveyance for registration is, despite subsections (1) and (1.1), liable to the additional tax of one-half of 1 per cent only upon the amount by which the value of the consideration determined by the Minister to be attributable to land used in connection with a single family residence exceeds \$2,000,000 or, for a conveyance to which subsection (1.1) applies, exceeds \$400,000. R.S.O. 1990, c. L.6, s. 2 (2); 1997, c. 10, s. 9 (2); 2016, c. 37, Sched. 13, s. 1 (2).

Additional tax on foreign entities and taxable trustees

(2.1) In addition to any tax payable under subsection (1), and subject to section 2.1, every person who, on or after April 21, 2017, tenders for registration in Ontario a conveyance by which any designated land that is located within the specified region is conveyed to a foreign entity or a taxable trustee shall pay, when the conveyance is tendered for registration or before it is tendered for registration, a tax,

- (a) computed at the rate of 15 per cent of the value of the consideration for the conveyance; or
- (b) if an alternate rate of tax is prescribed by the Minister for the purposes of this subsection, computed by multiplying the prescribed alternate rate by the value of the consideration for the conveyance. 2017, c. 17, Sched. 1, s. 2.

Conveyance after tax deferral and cancellation

(3) If tax in respect of the disposition of a beneficial interest in land has been deferred under subsection 3 (9) and cancelled under subsection 3 (11), the value of the consideration on the tender or submission for registration of a conveyance that transfers legal title to the land to the beneficial owner whose tax liability was cancelled under subsection 3 (11) or to a trustee for the beneficial owner shall be determined under clause (a), (b), (b.1), (c) or (g) of the definition of “value of the consideration” in subsection 1 (1) as if the value of the consideration were being determined in respect of the disposition of the beneficial interest in the land. 2006, c. 33, Sched. P, s. 1.

(4) REPEALED: 1997, c. 10, s. 9 (4).

(4.1) REPEALED: 1997, c. 10, s. 9 (5).

(5) REPEALED: 1997, c. 10, s. 9 (6).

(6) REPEALED: 1997, c. 10, s. 9 (7).

Tax to be payable on one registration only

(7) Where the same conveyance may be registered in more than one office under the registry system, in more than one office under the land titles system, or under both the registry system and the land titles system, the tax is payable only once in respect of the first of such conveyances tendered for registration and if the Minister or a land registrar is satisfied that the value of the consideration for a conveyance that has been registered is the value of the consideration for a subsequently registered conveyance that does not create with respect to the land conveyed any beneficial interest therein in any person beyond that evidenced by the first mentioned conveyance, and if the conveyances are made as part of the same transaction, tax is payable only once and upon the value of the consideration for the first of such conveyances that was registered. R.S.O. 1990, c. L.6, s. 2 (7); 2004, c. 31, Sched. 21, s. 2 (2).

Exemption

(8) No tax is payable where the only transferee in a conveyance that is tendered for registration is the Crown or a Crown agency within the meaning of the *Crown Agency Act*. R.S.O. 1990, c. L.6, s. 2 (8).

Minister’s certification, electronic registration

(9) A conveyance tendered for registration as an electronic document may be submitted for registration without the payment of tax and without the information listed in paragraphs 1 to 4 of subsection 5 (1) if the following conditions are satisfied:

1. The Minister or a person authorized in writing by the Minister is satisfied that no tax is payable, that all tax has been paid or that security for the payment of the tax has been furnished to the Minister in a form and of a kind that is acceptable to the Minister.
2. The Minister or authorized person has indicated to the Director of Land Registration appointed under subsection 6 (1) of the *Registry Act*, in a manner approved by the Director, that the tax has been paid or that no tax is payable. 2004, c. 31, Sched. 21, s. 2 (3).

Same, other registration

(10) A conveyance tendered for registration otherwise than as an electronic document may be registered without the payment of tax and without the production of the affidavit required by section 5 if the following conditions are satisfied:

1. The Minister or a person authorized in writing by the Minister is satisfied that no tax is payable, that all tax has been paid or that security for the payment of the tax has been furnished to the Minister or to the land registrar in a form and of a kind that is acceptable to the Minister.
2. The Minister or authorized person has indicated over his or her signature on the instrument that the tax has been paid or that no tax is payable. 2004, c. 31, Sched. 21, s. 2 (3).

Section Amendments with date in force (d/m/y)

1994, c. 18, s. 4 (5) - 23/06/1994; 1997, c. 10, s. 9 (1-7) - 07/05/1997

2004, c. 31, Sched. 21, s. 2 (1-3) - 16/12/2004

2006, c. 33, Sched. P, s. 1 - 20/12/2006

2016, c. 37, Sched. 13, s. 1 (1, 2) - 08/12/2016

2017, c. 17, Sched. 1, s. 2 - 01/06/2017

Special rules re subs. 2 (2.1)

2.1 (1) This section applies with respect to tax payable under subsection 2 (2.1). 2017, c. 17, Sched. 1, s. 3.

Same

(2) For greater certainty, in this section, a reference to tax payable under subsection 2 (2.1) includes tax payable under subsection 3 (2) that is determined in accordance with subsection 2 (2.1). 2017, c. 17, Sched. 1, s. 3.

Exemption, agreements prior to April 21, 2017

(3) No tax is payable under subsection 2 (2.1) if,

- (a) the land is conveyed pursuant to an agreement of purchase and sale entered into on or before April 20, 2017; and
- (b) any assignment of the agreement of purchase and sale to any other person was entered into on or before April 20, 2017. 2017, c. 17, Sched. 1, s. 3.

Exemption, prescribed classes or requirements

(4) No tax is payable under subsection 2 (2.1) if the land is conveyed,

- (a) to a foreign national who meets such residency, citizenship or immigration status requirements as may be prescribed by the Minister;
- (b) to a foreign national whose spouse meets such residency, citizenship or immigration status requirements as may be prescribed by the Minister;
- (c) to a foreign entity that is in a class of foreign entities prescribed by the Minister, or that meets such requirements as may be prescribed by the Minister; or
- (d) in accordance with such requirements as may be prescribed by the Minister. 2017, c. 17, Sched. 1, s. 3.

Rebate

(5) The Minister may rebate the tax paid by a person under subsection 2 (2.1) on a conveyance of land if the Minister is satisfied that the land was conveyed to a foreign entity or taxable trustee that,

- (a) meets such residency or citizenship requirements as may be prescribed by the Minister;
- (b) meets such educational enrolment or employment requirements as may be prescribed by the Minister; or
- (c) meets such other requirements as may be prescribed by the Minister. 2017, c. 17, Sched. 1, s. 3.

Calculation of additional tax where non-designated land

(6) If, in a conveyance of designated land in respect of which tax is payable under subsection 2 (2.1), a part of the land being conveyed is used for a purpose other than residential purposes, the Minister may, to the extent that the Minister considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the land used in connection with a single family residence, and the person tendering the conveyance for registration is, despite subsection 2 (2.1), liable to the additional tax imposed under that subsection only upon that amount. 2017, c. 17, Sched. 1, s. 3.

Section Amendments with date in force (d/m/y)

1996, c. 18, s. 8 - 01/06/1996; 1997, c. 10, s. 10 (1-3) - 07/05/1997

2004, c. 31, Sched. 21, s. 3 - 16/12/2004

2017, c. 17, Sched. 1, s. 3 - 01/06/2017

Person liable for the tax

2.2 Every person who immediately after the registration of a conveyance has a beneficial interest in the land that was acquired or increased as a result of a conveyance or as part of an arrangement relating to the conveyance is liable for the tax payable under section 2, unless the person has previously paid tax on the acquisition of or increase in beneficial interest. 1996, c. 29, s. 18; 2004, c. 31, Sched. 21, s. 4; 2016, c. 37, Sched. 13, s. 2.

Section Amendments with date in force (d/m/y)

1996, c. 29, s. 18 - 09/12/1996

2004, c. 31, Sched. 21, s. 4 - 16/12/2004

2016, c. 37, Sched. 13, s. 2 - 08/12/2016

Multiple conveyances

2.3 (1) Where land is conveyed by more than one conveyance and the Minister is of the opinion that one of the reasons for conveying the land by more than one conveyance is to reduce the total amount of tax payable under this Act in respect of the conveyances of the land to an amount less than the amount of tax that would have been payable if the land had been conveyed by one conveyance, the total amount of tax payable under this Act in respect of the conveyances shall not be less than the amount of tax that would have been payable if the land had been conveyed by one conveyance. 1996, c. 29, s. 18.

Multiple dispositions of beneficial interest

(2) Where a disposition of a beneficial interest in land occurs by means of more than one disposition of a beneficial interest in the land and the Minister is of the opinion that one of the reasons for disposing of the beneficial interest by more than one disposition is to reduce the total amount of tax payable under this Act in respect of the dispositions to an amount less than the amount of tax that would have been payable if the beneficial interest in the land had been disposed of in one disposition, the total amount of tax payable under this Act in respect of the dispositions shall not be less than the amount of tax that would have been payable if the beneficial interest had been disposed of by one disposition. 1996, c. 29, s. 18.

Section Amendments with date in force (d/m/y)

1996, c. 29, s. 18 - 09/12/1996

Disposition of beneficial interest in land

3 (1) For the purposes of this section, a disposition of a beneficial interest in land includes,

- (a) a sale, transfer or assignment, however effected, of any part of a beneficial interest in land; and
- (b) any change in entitlement to or any accretion to a beneficial interest in land,

but does not include,

- (c) REPEALED: 1997, c. 10, s. 11.
- (d) a transfer of a beneficial interest in land which occurs by reason of the death of the owner of the interest, if the transfer is not required to be made under the terms of an agreement enforceable by or against the person legally or beneficially entitled to the interest immediately following the death of the owner;
- (e) a transfer or assignment of a beneficial interest in land by a debtor to a creditor for the purpose only of providing security for a debt or loan and a transfer or reassignment by the creditor to the debtor of the security;
- (f) a lease of land or a transfer of the interest of a lessee under a lease of land if, at the time of the disposition, the unexpired term of the lease cannot exceed 50 years, including any renewals or extensions of the term provided for in the lease or in a separate option to lease or other document entered into as part of the arrangement relating to the lease (whether or not the lessee and the optionee or person named in the document are the same persons); or
- (g) a transfer or assignment of a beneficial interest in land arising on the execution of an agreement of purchase and sale of an interest in the land, or by a subsequent assignment of such beneficial interest by a purchaser under the agreement or by an assignee thereof, where,
 - (i) the value of the consideration specified in the agreement has not been paid to or for the benefit of the transferor, or

- (ii) the liability for the value of the consideration specified in the agreement has not been assumed by or on behalf of the transferee. R.S.O. 1990, c. L.6, s. 3 (1); 1994, c. 18, s. 4 (6); 1997, c. 10, s. 11.

Tax on disposition of a beneficial interest

(2) If there is a disposition of a beneficial interest in land, tax at the rates otherwise determined under section 2 is payable to the Minister on the thirtieth day after the date of the disposition as if the disposition were a conveyance of land tendered for registration. R.S.O. 1990, c. L.6, s. 3 (2); 1994, c. 18, s. 4 (5).

By whom payable

(3) The tax under subsection (2) is payable by every person who acquires a beneficial interest in land or whose beneficial interest in land is increased as a result of the disposition. R.S.O. 1990, c. L.6, s. 3 (3).

Multiple interests

(4) Subject to subsection (4.1), if more than one person acquires a beneficial interest in land, or more than one person's beneficial interest in land is increased as a result of the disposition, each of them is liable to pay only that percentage of the tax otherwise payable under this section that reflects their proportional share of the acquisition of or increase in beneficial interest. R.S.O. 1990, c. L.6, s. 3 (4); 2017, c. 17, Sched. 1, s. 4 (1).

Exception, joint and several liability for tax under subs. 2 (2.1)

(4.1) If more than one person acquires a beneficial interest in land, or more than one person's beneficial interest in land is increased as a result of the disposition, each of them is jointly and severally liable to pay the amount of tax imposed under subsection (2) that was determined at the rate under subsection 2 (2.1). 2017, c. 17, Sched. 1, s. 4 (2).

Exceptions

(5) No tax is payable by virtue of this section if,

- (a) an instrument evidencing the disposition of the beneficial interest in land is tendered for registration within 30 days after the date of the disposition and the tax payable under section 2 on the registration of the instrument has been paid; or

(a.1) REPEALED: 2004, c. 31, Sched. 21, s. 5 (2).

- (b) the disposition of the beneficial interest in land is prescribed as being exempt. R.S.O. 1990, c. L.6, s. 3 (5); 1996, c. 18, s. 9 (1); 2004, c. 31, Sched. 21, s. 5 (1, 2); 2016, c. 37, Sched. 13, s. 3 (1).

Tax only paid once

(6) If a person who has paid the tax under this section tenders for registration an instrument evidencing the disposition, no tax is payable under section 2 if the Minister is satisfied that the instrument,

- (a) does not transfer any beneficial interest in land to any person other than the person who has paid the tax on the disposition under this section; and
- (b) does not increase any person's beneficial interest in land in excess of the beneficial interest transferred by the disposition. 1996, c. 18, s. 9 (2); 2004, c. 31, Sched. 21, s. 5 (3); 2016, c. 37, Sched. 13, s. 3 (2).

Verification of Minister

(7) If the tax payable under this section has been paid, or no tax is payable under this Act, the Minister, or a person authorized in writing by the Minister, shall so verify,

- (a) over his or her signature on the instrument; or
- (b) in the manner approved by the Director of Land Registration, appointed under subsection 6 (1) of the *Registry Act*, where an electronic document is submitted for registration. 1996, c. 18, s. 9 (2).

Registration of instrument without payment of tax, etc.

(8) Where an instrument has been verified under subsection (7), it may be registered without the payment of tax under section 2 and without the production of the statement or affidavit required by section 5. 2004, c. 31, Sched. 21, s. 5 (4); 2016, c. 37, Sched. 13, s. 3 (3).

Deferred payment

(9) If the disposition of a beneficial interest in land is from one corporation to another corporation, each of which is an affiliate of the other immediately before and at the time of the disposition, the Minister may defer the payment of the tax payable by virtue of this section by the corporation acquiring the beneficial interest if,

- (a) before the thirtieth day after the date of disposition of the beneficial interest in the land, the corporation applies to the Minister for the deferral and submits a written undertaking satisfactory to the Minister, undertaking that for a period of at least thirty-six consecutive months immediately following the date of the disposition,
 - (i) the corporation making the disposition and the corporation acquiring the beneficial interest on the disposition will continue to be affiliates of each other, and
 - (ii) the beneficial interest in the land will continue to be owned by the corporation acquiring the beneficial interest on the disposition or by a corporation that is an affiliate of that corporation and with the corporation which made the disposition of the beneficial interest in the land;
- (b) security for the tax in a form and of a kind acceptable to the Minister is furnished to the Minister; and
- (c) no conveyance or instrument or electronic document evidencing the disposition has been registered. R.S.O. 1990, c. L.6, s. 3 (9); 1996, c. 18, s. 9 (3); 2004, c. 31, Sched. 21, s. 5 (5).

Extension of time

(10) The Minister may extend the time for applying for a deferral and submitting the undertaking referred to in subsection (9) if the Minister is satisfied that any delay by the corporation in applying for the deferral or submitting the undertaking was not for the purpose of attempting to delay, avoid or evade the payment of the tax. R.S.O. 1990, c. L.6, s. 3 (10).

Cancellation to tax

- (11) The Minister shall return the security furnished in respect of the deferral granted under subsection (9) and the amount of tax deferred is no longer owing by reason of this section if,
- (a) the Minister is of the opinion that the undertaking given under subsection (9) has been satisfied and no conveyance or instrument evidencing the disposition of the beneficial interest in land has been registered;
 - (b) a conveyance or instrument or electronic document evidencing the disposition of the beneficial interest in land to the corporation has been registered and the tax payable under section 2 has been paid; or
 - (c) there has been a disposition of the beneficial interest in the land, or a conveyance of the land, by the corporation, or by an affiliate of the corporation, to a person who is not an affiliate of the corporation and tax has been paid under this Act in respect of that disposition or on registration of the conveyance, as applicable. R.S.O. 1990, c. L.6, s. 3 (11); 1996, c. 18, s. 9 (4); 2004, c. 31, Sched. 21, s. 5 (6, 7); 2016, c. 37, Sched. 13, s. 3 (4).

Dissolution or winding-up

(12) For the purposes of subsection (11), if a corporation was an affiliate of another corporation immediately before winding-up or dissolving, the corporation shall be considered to continue to exist and to be an affiliate of that other corporation for the purpose of determining whether any undertakings given under subsection (9) have been fulfilled with respect to any disposition of a beneficial interest in land made before the winding-up or dissolution of the corporation or in the course of any distribution of property of the corporation on the winding-up or dissolution. R.S.O. 1990, c. L.6, s. 3 (12).

Requirement to pay tax

(13) Nothing in subsection (9) or (11) relieves any person from the payment of tax under this Act upon the registration of a conveyance which evidences the disposition of a beneficial interest in land. R.S.O. 1990, c. L.6, s. 3 (13).

Registration of instrument evidencing disposition of beneficial interest in land

(13.1) For the purposes of clauses (9) (c) and (11) (a) and (b), the registration of a conveyance of legal title to the land to the beneficial owner of the land or a trustee for the beneficial owner is deemed to be a conveyance which evidences the disposition of a beneficial interest in land. 2006, c. 33, Sched. P, s. 2 (1).

Affiliate

(14) For the purposes of this section, a corporation is an affiliate of another corporation if one of them is the subsidiary of the other, if both are subsidiaries of the same corporation or if each of them is controlled by the same person or persons. 2006, c. 33, Sched. P, s. 2 (2).

Same

- (15) The following rules apply for the purposes of determining if corporations are affiliates:
1. A corporation is a subsidiary of another corporation if,
 - i. it is controlled by,

- A. that other,
 - B. that other and one or more corporations each of which is controlled by that other, or
 - C. two or more corporations each of which is controlled by that other, or
 - ii. it is a subsidiary of a corporation that is that other's subsidiary.
2. A corporation is controlled by another person or corporation or by two or more corporations if,
 - i. voting securities of the first-mentioned corporation carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or corporation or by or for the benefit of the other corporations, and
 - ii. the votes carried by the voting securities described in subparagraph i are entitled, if exercised, to elect a majority of the board of directors of the first-mentioned corporation.
 3. For the purposes of paragraph 2,
 - i. a person is deemed to own beneficially securities that are beneficially owned by a corporation controlled by the person or by an affiliate of that corporation, and
 - ii. a corporation is deemed to own beneficially securities that are beneficially owned by its affiliates.
 4. Unless the regulations provide otherwise, references in paragraphs 2 and 3 to securities are references to securities within the meaning of the *Securities Act*. 2006, c. 33, Sched. P, s. 2 (2).

Section Amendments with date in force (d/m/y)

1994, c. 18, s. 4 (5) - 23/06/1994; 1994, c. 18, s. 4 (6) - 29/11/1993; 1996, c. 18, s. 9 (1-4) - 01/06/1996; 1996, c. 29, s. 19 - 09/12/1996; 1997, c. 10, s. 11 - 07/05/1997

2004, c. 31, Sched. 21, s. 5 (1-7) - 16/12/2004

2006, c. 33, Sched. P, s. 2 (1, 2) - 20/12/2006

2016, c. 37, Sched. 13, s. 3 (1-4) - 08/12/2016

2017, c. 17, Sched. 1, s. 4 (1, 2) - 01/06/2017

4 REPEALED: 2004, c. 31, Sched. 21, s. 6.

Section Amendments with date in force (d/m/y)

1994, c. 18, s. 4 (5) - 23/06/1994

2004, c. 31, Sched. 21, s. 6 - 16/12/2004

Information and returns

Statement or affidavit re conveyance

5 (1) The following information respecting a conveyance shall be provided to the Minister in the form and manner required by subsection (1.1) or (1.2):

1. The true value of the consideration for the conveyance.
2. The true amount in cash and the value of any property or security included in the value of the consideration.
3. The amount or value of any lien or encumbrance subject to which the conveyance is made.
4. Where the value of the conveyance exceeds \$400,000, whether the land being conveyed contains at least one and not more than two single family residences.
5. Such other information as may be required by the Minister for the purposes of administering or enforcing this or any other Act. 2004, c. 31, Sched. 21, s. 7 (1).

Same, statement

(1.1) If the conveyance is tendered for registration as an electronic document, the information shall be provided as a statement in the form and manner approved by the Minister and the statement shall be included as part of the electronic document. 2004, c. 31, Sched. 21, s. 7 (1).

Same, affidavit

(1.2) If the conveyance is tendered for registration otherwise than as an electronic document, the information shall be provided as an affidavit in the form approved by the Minister and the affidavit shall be filed with the land registrar and attached by the land registrar to the conveyance to which it relates. 2004, c. 31, Sched. 21, s. 7 (1).

Maker of statement or affidavit

- (2) The statement or affidavit required by this section shall be made by,
- (a) each transferee to whom or in trust for whom any land is conveyed by the conveyance to which the affidavit relates;
 - (b) each trustee to whom any land is conveyed and who is shown as a trustee in the conveyance to which the affidavit relates;
 - (c) each transferee named in the conveyance to which the affidavit relates;
 - (d) an agent of any person referred to in clause (a), (b) or (c), if the agent is authorized in writing to make the affidavit;
 - (e) the solicitor acting in the transaction as the solicitor for any person referred to in clause (a), (b) or (c);
 - (f) the presiding officer authorized to act for a corporation that is a person referred to in clause (a), (b) or (c), or the Vice-President, Manager, Secretary, Director or Treasurer authorized to act for such corporation; or
 - (g) either of two transferees who are spouses of each other and both of whom are transferees referred to in clause (a), (b) or (c), where the transferee making the affidavit is acting on behalf of the other of such transferees. R.S.O. 1990, c. L.6, s. 5 (2); 1999, c. 6, s. 32 (2); 2004, c. 31, Sched. 21, s. 7 (2); 2005, c. 5, s. 36 (2).

Same

(2.1) Despite subsection (2), upon application to the Minister by a transferor named in a conveyance, the Minister or a person authorized by the Minister may consent to the transferor making the statement or affidavit required by this section and the transferor may do so if,

- (a) the transferor is tendering or submitting the conveyance for registration;
- (b) no tax is payable under this Act in respect of the conveyance; and
- (c) the transferor satisfies the Minister that the transferor has sufficient information to enable the transferor to make the affidavit or statement. 1996, c. 29, s. 20 (1); 2004, c. 31, Sched. 21, s. 7 (3, 4).

Contents

(3) The statement or affidavit shall state that the person making it has personal knowledge of the facts stated in it and shall state, where applicable, the capacity in which the person is making the statement or affidavit and the name of any transferee on whose behalf the person is making the statement or affidavit. 2004, c. 31, Sched. 21, s. 7 (5).

Referral to Minister

(4) If the land registrar is not satisfied that the statement or affidavit sets out the true value of the consideration for the conveyance, he or she may refuse to register the conveyance until the Minister has signified over his or her signature that the Minister is satisfied that the value of the consideration stated in the statement or affidavit is the true value of the consideration. 2004, c. 31, Sched. 21, s. 7 (5).

Exceptions

(5) Despite subsection (1), the information listed in paragraphs 1 to 4 of subsection (1) is not required for a conveyance tendered for registration as an electronic document and an affidavit is not required for a conveyance tendered for registration otherwise than as an electronic document,

- (a) if the only transferee named in the conveyance is Her Majesty in right of Ontario, Her Majesty in right of Canada or a Crown agency within the meaning of the *Crown Agency Act*, and if no tax is payable under this Act by any person in respect of the conveyance; or
- (b) if the conveyance expressly states that it is in trust for only Her Majesty in right of Ontario, Her Majesty in right of Canada or a Crown agency within the meaning of the *Crown Agency Act*. 1996, c. 29, s. 20 (2); 2004, c. 31, Sched. 21, s. 7 (6).

(5.1) REPEALED: 2004, c. 31, Sched. 21, s. 7 (7).

Exception, certain leases

(6) The information listed in paragraphs 1 to 4 of subsection (1) is not required for a conveyance if no tax is payable by reason of subsection 1 (6). 2004, c. 31, Sched. 21, s. 7 (8).

Idem

(7) Every person liable to pay tax under section 3 shall deliver a return to the Minister, in a form approved by the Minister, on or before the day when the tax is payable under that section and shall remit the tax payable with the return. R.S.O. 1990, c. L.6, s. 5 (7).

Idem

(8) Every person who holds a legal interest in land in trust for any other person shall, within thirty days of becoming aware of any disposition of a beneficial interest in land to which section 3 applies, deliver to the Minister a return in a form approved by the Minister setting out the particulars of the disposition and such other information as the Minister may require for the purpose of determining the tax liability under this Act. R.S.O. 1990, c. L.6, s. 5 (8).

More than one trustee

(9) If a legal interest in land is held in trust for another person by more than one trustee, the return required to be delivered under subsection (8) may be made by one or more of the trustees on behalf of all of the trustees. R.S.O. 1990, c. L.6, s. 5 (9).

(10) REPEALED: 2004, c. 31, Sched. 21, s. 7 (9).

(11) REPEALED: 2004, c. 31, Sched. 21, s. 7 (10).

(11.1) REPEALED: 2004, c. 31, Sched. 21, s. 7 (11).

Extension of time for returns

(12) The Minister may extend the time for delivering the return required under subsection (7) or (8) either before or after the time for delivering it has expired. R.S.O. 1990, c. L.6, s. 5 (12); 1994, c. 18, s. 4 (8); 1997, c. 10, s. 12 (4).

(13) REPEALED: 2004, c. 31, Sched. 21, s. 7 (12).

(14) REPEALED: 1997, c. 10, s. 12 (6).

(15) REPEALED: 1997, c. 10, s. 12 (6).

(16) REPEALED: 1997, c. 10, s. 12 (6).

(17) REPEALED: 1994, c. 18, s. 4 (10).

Section Amendments with date in force (d/m/y)

1994, c. 18, s. 4 (7-10) - 23/06/1994; 1996, c. 18, s. 10 - 01/06/1996; 1996, c. 29, s. 20 (1, 2) - 09/12/1996; 1997, c. 10, s. 12 (1-6) - 07/05/1997; 1997, c. 19, s. 12 (1) - 10/10/1997; 1999, c. 6, s. 32 (2) - 01/03/2000

2004, c. 31, Sched. 21, s. 7 (1-12) - 16/12/2004

2005, c. 5, s. 36 (2) - 09/03/2005

Additional information

5.0.1 (1) Every transferee, in a conveyance or disposition in respect of which a statement, affidavit or return is required under section 5, shall provide the Minister with such additional information as may be prescribed about the transferee and the conveyance or disposition, and shall provide the information in the form and manner approved by the Minister. 2017, c. 17, Sched. 1, s. 5.

Use of information

(2) The Minister may use information collected under subsection (1) for the purposes of the administration or enforcement of this Act. 2016, c. 37, Sched. 13, s. 4.

Same, analyses

(3) The Minister may use information collected under subsection (1) in de-identified form for the purposes of compiling statistical information and of developing and evaluating economic, tax and fiscal policy. 2016, c. 37, Sched. 13, s. 4.

Meaning of “de-identified form”

(4) For the purposes of subsection (3), information is in de-identified form if any information that identifies an individual and any information that it is reasonably foreseeable in the circumstances could be utilized, either alone or with other information, to identify an individual, has been removed. 2016, c. 37, Sched. 13, s. 4.

Regulations

(5) The Minister may make regulations prescribing anything that is referred to as prescribed in this section. 2016, c. 37, Sched. 13, s. 4.

Section Amendments with date in force (d/m/y)

2016, c. 37, Sched. 13, s. 4 - 08/12/2016

2017, c. 17, Sched. 1, s. 5 - 01/06/2017

Confidentiality

5.0.2 (1) Except as authorized by this section and subsections 5.0.1 (2) and (3), the Minister shall not,

- (a) knowingly communicate or knowingly allow to be communicated to any person any personal information obtained under section 5.0.1; or
- (b) knowingly allow any person to inspect or to have access to any personal information obtained under section 5.0.1. 2016, c. 37, Sched. 13, s. 4.

Same

(2) Except as authorized by this section and subsection 5.2 (3), no designated collector and no land registrar shall,

- (a) knowingly communicate or knowingly allow to be communicated to any person any personal information obtained under section 5.0.1; or
- (b) knowingly allow any person to inspect or to have access to any personal information obtained under section 5.0.1. 2016, c. 37, Sched. 13, s. 4.

Testimony

(3) No person who collects information under section 5.0.1 shall be required, in connection with any legal proceedings,

- (a) to give evidence relating to any information obtained under section 5.0.1; or
- (b) to produce any information obtained under section 5.0.1. 2016, c. 37, Sched. 13, s. 4.

Exception

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

- (a) criminal proceedings under any Act of the Parliament of Canada;
- (b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or
- (c) proceedings relating to the administration or enforcement of this Act. 2016, c. 37, Sched. 13, s. 4.

Same

(5) The Minister may permit information obtained under section 5.0.1 to be given to,

- (a) the person from whom the information was obtained; or
- (b) the legal representative of a person mentioned in clause (a) or the agent of the person authorized in writing in that behalf. 2016, c. 37, Sched. 13, s. 4.

Section Amendments with date in force (d/m/y)

2016, c. 37, Sched. 13, s. 4 - 08/12/2016

Offence, false or misleading statements

5.0.3 Every person who makes or assists in making a statement in a statement, affidavit or return required under section 5 for the purpose of determining tax liability under subsection 2 (2.1) that, at the time and in light of the circumstances under which it was made, is false or misleading in respect of any fact or that omits to state any material fact, the omission of which makes the statement false or misleading, is guilty of an offence and on conviction is liable to a fine of not more than \$10,000. 2017, c. 17, Sched. 1, s. 6.

Section Amendments with date in force (d/m/y)

2017, c. 17, Sched. 1, s. 6 - 01/06/2017

Designated collectors

5.1 (1) The Minister may, in writing, designate one or more persons to collect the tax payable under this Act with respect to conveyances tendered for registration as electronic documents, and may attach such conditions and restrictions to a designation as the Minister considers appropriate. 2004, c. 31, Sched. 21, s. 8.

Status

(2) Every designated collector is an agent of the Minister for the purposes of collecting and remitting the tax imposed by this Act with respect to conveyances tendered for registration as electronic documents. 2004, c. 31, Sched. 21, s. 8.

Security

(3) The Minister shall demand security in a form acceptable to the Minister from every designated collector in an amount not less than the equivalent of an average of one month's tax collectable by the designated collector calculated for the 12-month period immediately preceding the date of the Minister's demand or \$1 million, whichever is greater. 2004, c. 31, Sched. 21, s. 8.

Same

(4) Upon receiving the Minister's demand for security under subsection (3), the designated collector shall forthwith furnish the security. 2004, c. 31, Sched. 21, s. 8.

Same

(5) The Minister may, at any time, increase or decrease the amount of security furnished or to be furnished under subsection (4). 2004, c. 31, Sched. 21, s. 8.

Tax held in trust

- (6) All amounts collected or collectable as or on account of tax under this Act by a designated collector,
- (a) shall be deemed, despite any security interest in the amount so collected or collectable, to be held in trust for Her Majesty in right of Ontario;
 - (b) shall be held separate and apart from the designated collector's property and from property held by any secured creditor that but for the security interest would be the designated collector's property; and
 - (c) shall be remitted by the designated collector to the Minister in the manner and at the times provided under this Act. 2004, c. 31, Sched. 21, s. 8.
- (7) REPEALED: 2012, c. 8, Sched. 29, s. 1.

Minister's certificate

(8) Every person who, as assignee, liquidator, administrator, receiver, receiver-manager, secured or unsecured creditor or agent of the creditor, trustee or other like person, other than a trustee appointed under the *Bankruptcy and Insolvency Act* (Canada), takes control or possession of any property of a designated collector shall, before distributing the property or proceeds from the realization of the property under that person's control, obtain from the Minister a certificate that the amount deemed by subsection (6) to be held in trust, including any interest and penalties payable by the designated collector, has been paid or that security acceptable to the Minister has been given. 2004, c. 31, Sched. 21, s. 8.

No distribution without Minister's certificate

(9) Any person described in subsection (8) who distributes any property described in that subsection or the proceeds of the realization of that property without having obtained the certificate required by that subsection is personally liable to Her Majesty in right of Ontario for an amount equal to the amount deemed by subsection (6) to be held in trust, including any interest and penalties payable by the designated collector. 2004, c. 31, Sched. 21, s. 8.

Notice to be given

(10) A person described in subsection (8) shall give written notice to the Minister of his or her assumption of possession or control of the property within seven days after assuming possession or control. 2004, c. 31, Sched. 21, s. 8.

Minister to advise of indebtedness

(11) As soon as practicable after receiving a notice under subsection (10), the Minister shall advise the person described in subsection (8) of the amount deemed by subsection (6) to be held in trust, including any interest and penalties. 2004, c. 31, Sched. 21, s. 8.

Agreements

(12) For the purposes of ensuring and facilitating the collection of tax under this Act, the Minister may enter into such arrangements and agreements with a designated collector as the Minister considers appropriate. 2004, c. 31, Sched. 21, s. 8.

Definitions

(13) In this section,

“secured creditor” means a person who has a security interest in the property of another person or who acts for or on behalf of that person with respect to the security interest, and includes a trustee appointed under a trust deed relating to a security interest, a receiver or receiver-manager appointed by a secured creditor or by a court on the application of a secured creditor and any other person performing a similar function; (“créancier garanti”)

“security interest” means any interest in property that secures payment or performance of an obligation, and includes an interest created by or arising out of a debenture, mortgage, lien, pledge, charge, deemed or actual trust, assignment or encumbrance of any kind whatsoever or whenever arising, created or deemed to arise or otherwise provided for, but does not include a security interest prescribed by the Minister as one to which subsections (6) to (10) do not apply. (“sûreté”) 2004, c. 31, Sched. 21, s. 8.

Section Amendments with date in force (d/m/y)

2004, c. 31, Sched. 21, s. 8 - 16/12/2004

2012, c. 8, Sched. 29, s. 1 - 20/06/2012

Duty to collect tax

5.2 (1) Every designated collector and land registrar shall collect the tax payable under this Act with respect to conveyances tendered for registration. 2004, c. 31, Sched. 21, s. 8.

Duty to remit tax

(2) Every designated collector and land registrar shall remit to the Minister, at the times and in the manner required by the Minister, the tax collectable by the designated collector or land registrar. 2004, c. 31, Sched. 21, s. 8.

Duty to provide information

(3) Every designated collector and land registrar shall give to the Minister and to such other persons as the Minister may specify any information obtained in the course of performing duties under this Act and such other information as the Minister considers necessary for the proper administration and enforcement of this or any other Act, and shall give the information to the Minister and other persons without charge and in the form and manner and at the times required by the Minister. 2004, c. 31, Sched. 21, s. 8.

Duty to comply with guidelines

(4) Every designated collector and land registrar shall comply with such guidelines established by the Minister as the Minister may require respecting the form and manner in which information is to be obtained by designated collectors or land registrars in the course of performing duties under this Act and respecting the collection and remittance of tax under this Act. 2004, c. 31, Sched. 21, s. 8.

Section Amendments with date in force (d/m/y)

2004, c. 31, Sched. 21, s. 8 - 16/12/2004

Duty to file returns

5.3 (1) Every land registrar shall file with the Minister such returns as the Minister may require with respect to the amount of tax collected by the land registrar. 2004, c. 31, Sched. 21, s. 8.

Same, designated collectors

(2) Every designated collector shall file with the Minister at such times and in such manner as the Minister may require such returns containing such information as the Minister may require. 2004, c. 31, Sched. 21, s. 8.

Section Amendments with date in force (d/m/y)

2004, c. 31, Sched. 21, s. 8 - 16/12/2004

Agreement to exchange information with City of Toronto

5.4 (1) The Minister and the City of Toronto may enter into an agreement under which,

- (a) the Minister may disclose to the City of Toronto information collected by the Minister in the administration of this Act or the regulations; and
- (b) the City of Toronto may disclose to the Minister information collected by the City of Toronto in the administration and enforcement of a by-law made under section 267 of the *City of Toronto Act, 2006* that imposes a municipal land transfer tax. 2008, c. 7, Sched. K, s. 1.

Scope of information

(2) An agreement described in subsection (1) may authorize the disclosure of any information collected by the Minister, by the City of Toronto or by an agent of either or both of them that relates to a conveyance or a disposition on or after February 1, 2008. 2008, c. 7, Sched. K, s. 1.

Minister may disclose information

(3) Despite any other Act, the Minister may disclose information to the City of Toronto in accordance with an agreement described in subsection (1). 2008, c. 7, Sched. K, s. 1.

City of Toronto may collect and use information

(4) Despite any other Act, the City of Toronto may collect and use information disclosed to it by the Minister in accordance with an agreement described in subsection (1), but shall use it only for the purposes of administering or enforcing a by-law made under section 267 of the *City of Toronto Act, 2006* that imposes a municipal land transfer tax. 2008, c. 7, Sched. K, s. 1.

City of Toronto may disclose information

(5) Despite any other Act, the City of Toronto may disclose information to the Minister in accordance with an agreement described in subsection (1). 2008, c. 7, Sched. K, s. 1.

Minister may collect and use information

(6) Despite any other Act, the Minister may collect and use information disclosed by the City of Toronto in accordance with an agreement described in subsection (1) for the purposes of administering and enforcing any Act and any portion of any Act administered by the Minister. 2008, c. 7, Sched. K, s. 1.

Deemed collection

(7) Despite any other Act, all information collected by the Minister from the City of Toronto under an agreement described in subsection (1) is deemed to be information collected directly by the Minister from the person or entity from whom the City of Toronto collected the information. 2008, c. 7, Sched. K, s. 1.

Section Amendments with date in force (d/m/y)

2008, c. 7, Sched. K, s. 1 - 14/05/2008

Offence, false statements

6 (1) Every person is guilty of an offence who,

- (a) makes, participates in, assents to or acquiesces in the making of false or deceptive statements in a statement, affidavit, return or other document prepared, submitted or filed under this Act;
- (b) destroys, alters, mutilates, hides or otherwise disposes of any records or books of account, in order to evade payment of tax under this Act;
- (c) makes, assents to or acquiesces in the making of false or deceptive entries, or assents to or acquiesces in the omission to enter a material particular, in any records or books of account;
- (d) wilfully, in any manner, evades or attempts to evade,
 - (i) paying tax under this Act, or
 - (ii) complying with this Act; or
- (e) conspires with any person to commit an offence described in clauses (a) to (d). 2004, c. 31, Sched. 21, s. 9.

Same

(2) A person convicted of an offence under subsection (1) is liable to one or both of the following penalties, in addition to any other penalty provided by this Act:

- 1. A fine that is,

- i. a minimum of \$1,000 or 50 per cent of the amount of tax that should have been remitted as collected or payable or that was sought to be evaded, whichever is greater, and
- ii. a maximum of twice the amount of tax that should have been remitted as collected or payable or that was sought to be evaded, if the maximum so calculated is greater than \$1,000.

2. Imprisonment for a term of not more than two years. 2004, c. 31, Sched. 21, s. 9.

Section Amendments with date in force (d/m/y)

1997, c. 10, s. 13 - 07/05/1997

2004, c. 31, Sched. 21, s. 9 - 16/12/2004

Offence, failure to deliver return, pay tax

6.1 In addition to any penalty otherwise payable under this Act, every person who fails to deliver a return as required by subsection 5 (7) or (8) or who fails to remit the tax payable is guilty of an offence and on conviction is liable to a fine of not less than 25 per cent of the tax payable and not more than twice the amount of the tax payable. 2004, c. 31, Sched. 21, s. 9.

Section Amendments with date in force (d/m/y)

2004, c. 31, Sched. 21, s. 9 - 16/12/2004

Offence, general

7 (1) Subject to sections 6 and 6.1, every person who knowingly contravenes any provision of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 if no other penalty is provided for the offence. 2004, c. 31, Sched. 21, s. 10 (1).

Compliance, how proved

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Finance. R.S.O. 1990, c. L.6, s. 7 (2); 2004, c. 31, Sched. 21, s. 10 (2).

Limitation

(3) A proceeding to prosecute an offence under this Act shall be commenced within six years of the time when the offence occurred. R.S.O. 1990, c. L.6, s. 7 (3).

Section Amendments with date in force (d/m/y)

1997, c. 10, s. 14 - 07/05/1997

2004, c. 31, Sched. 21, s. 10 (1, 2) - 16/12/2004

Penalty, failure to pay tax

7.1 (1) If the Minister is satisfied that a person's failure to pay tax is attributable to fraud or wilful default, the Minister may assess a penalty against the person in an amount equal to the greater of \$500 and 25 per cent of the tax that the person failed to pay. 1999, c. 9, s. 133.

Same, tax under s. 2

(2) Every person who tenders for registration a conveyance described in subsection 2 (1) or (1.1) and who pays, at that time, an amount that is less than the amount of tax payable by that person under section 2 shall pay a penalty, when the Minister assesses it, in an amount equal to 5 per cent of the difference between the tax payable and the amount actually paid. 2016, c. 37, Sched. 13, s. 5.

Same, returns under s. 5

(3) Every person who fails to deliver a return as required by subsection 5 (7) or (8) shall pay a penalty, when the Minister assesses it, in an amount equal to 5 per cent of the tax payable. 2004, c. 31, Sched. 21, s. 11.

Same, taxes under s. 5

(4) Every person who fails to remit with a return required by subsection 5 (7) or (8) the amount of tax payable shall pay, when the Minister so assesses, a penalty of an amount equal to 5 per cent of the difference between the tax payable and the amount actually paid. 2004, c. 31, Sched. 21, s. 11.

Section Amendments with date in force (d/m/y)

1999, c. 9, s. 133 - 14/12/1999

2004, c. 31, Sched. 21, s. 11 - 16/12/2004

2016, c. 37, Sched. 13, s. 5 - 08/12/2016

Penalties, designated collectors

Failure to comply with conditions of designation

7.2 (1) The Minister may assess a penalty against a designated collector who fails to comply with any condition or restriction attached to the designated collector's designation under subsection 5.1 (1) and the amount of the penalty is not more than \$5,000 for each day the failure continues. 2004, c. 31, Sched. 21, s. 12.

Failure to provide security

(2) The Minister may assess a penalty against a designated collector who fails to provide security as required under subsection 5.1 (3) and the amount of the penalty is not more than \$5,000 for each day the failure continues. 2004, c. 31, Sched. 21, s. 12.

Failure to collect tax

(3) The Minister may assess a penalty against a designated collector who fails to collect tax as required by subsection 5.2 (1), and the amount of the penalty is 110 per cent of the amount that the designated collector failed to collect. 2004, c. 31, Sched. 21, s. 12.

Right to sue

(4) If a designated collector pays a penalty under subsection (3) in respect of tax that the designated collector failed to collect from a person who was liable to pay the tax, the designated collector may sue the person in order to recover the amount of the tax. 2004, c. 31, Sched. 21, s. 12.

Failure to remit tax

(5) The Minister may assess a penalty against a designated collector who fails to remit tax as required by subsection 5.2 (2), and the amount of the penalty is 10 per cent of the amount that the designated collector failed to remit. 2004, c. 31, Sched. 21, s. 12.

Failure to provide information

(6) The Minister may assess a penalty against a designated collector who, in the Minister's opinion, fails to provide the information required by subsection 5.2 (3) in accordance with the requirements imposed under that subsection and the amount of the penalty is \$10,000 for each day that the failure continues. 2004, c. 31, Sched. 21, s. 12.

Failure to comply with guidelines

(7) The Minister may assess a penalty against a designated collector who, in the Minister's opinion, fails to comply with the guidelines under subsection 5.2 (4) and the amount of the penalty is not more than \$5,000 for each day the failure continues. 2004, c. 31, Sched. 21, s. 12.

Failure to file a return

(8) The Minister may assess a penalty against a designated collector who fails to file a return under subsection 5.3 (2) at the time or in the manner required by the Minister or fails to include in a return filed under that subsection any information required by the Minister and the amount of the penalty is \$10,000 for each day that the failure continues. 2004, c. 31, Sched. 21, s. 12.

Section Amendments with date in force (d/m/y)

2004, c. 31, Sched. 21, s. 12 - 16/12/2004

Refund

8 (1) Where a person has paid an amount under this Act that is not payable under this Act, the Minister may, upon receipt of satisfactory evidence that the amount was wrongly paid, refund all or part of the amount, but no refund shall be made unless an application for it is made within four years after the date of the payment. 2004, c. 31, Sched. 21, s. 13 (1).

Refund, residence on farmland

(2) The Minister may refund to a transferee the tax paid by him, her or it under this Act, as calculated under clause 2 (1) (b) or (1.1) (b), on a conveyance of land on which a single family residence is located,

- (a) if the residence ceases to be a single family residence under this Act because the land on which the residence is located is eligible to be classified in the farm property class prescribed under the *Assessment Act*; and
- (b) if the Minister receives evidence satisfactory to him or her that the land is eligible to be classified in the farm property class. 2000, c. 42, s. 68 (1); 2002, c. 22, s. 135; 2016, c. 37, Sched. 13, s. 6 (1).

Time limit

(3) The Minister shall not make a refund under subsection (2) unless an application is made for the refund within four years after the conveyance is registered. 2000, c. 42, s. 68 (2).

Same, land not transferred

(4) In the following circumstances, the Minister may refund all or part of the tax paid on the tender or submission for registration of a conveyance that is a caution or notice of any kind signifying the existence of any unregistered instrument or writing by which an interest in land is conveyed:

1. The caution or notice evidences an agreement to transfer or to extinguish an interest in land.
2. The Minister is satisfied that the transfer or extinguishment of the interest,
 - i. has not taken place in whole or in part, or
 - ii. is not part of another conveyance or a disposition of a beneficial interest in land between the same parties. 1998, c. 34, s. 87.

Same, related conveyance or disposition

(4.1) In the following circumstances and only to the extent that the Minister considers it equitable to do so, the Minister may refund tax paid on the tender or submission for registration of a conveyance that is a caution or notice of any kind signifying the existence of any unregistered instrument or writing by which an interest in land is conveyed:

1. The caution or notice evidences an agreement to transfer or to extinguish an interest in land.
2. The transfer or extinguishment has occurred as part of another conveyance or a disposition of a beneficial interest in land between the same parties.
3. The Minister is satisfied that tax has been paid under the Act in respect of the other conveyance or disposition.
4. The refund does not exceed the amount necessary to eliminate any incidence of double taxation under the Act on the transfer or extinguishment of the interest in land. 1998, c. 34, s. 87.

(5) REPEALED: 1997, c. 10, s. 15 (2).

Refund of tax paid under s. 3

(6) If the Minister is satisfied that a person has paid tax under section 3 on a disposition of a beneficial interest in land and under section 2 upon the registration of or submission for registration of an instrument evidencing the disposition of the beneficial interest, the Minister may, upon application by the person in the prescribed manner within four years after the date of registration of the instrument, refund the tax paid under section 3 to that person. R.S.O. 1990, c. L.6, s. 8 (6); 1996, c. 18, s. 11 (5); 1997, c. 43, Sched. F, s. 6 (3); 2004, c. 31, Sched. 21, s. 13 (2); 2016, c. 37, Sched. 13, s. 6 (2).

Disallowance of refund

(7) Where a person has, in accordance with this Act and the regulations, applied for a refund under this Act and the person's claim is in whole or in part refused, the Minister shall cause to be delivered to such person a statement of disallowance in such form as the Minister shall require, and the statement shall specify the amount of the disallowance and the reasons therefor. R.S.O. 1990, c. L.6, s. 8 (7); 1997, c. 19, s. 12 (2).

Application to other liabilities

(8) Instead of making a refund under this Act or the regulations, if any person is liable or is about to become liable to make a payment under this Act or under any other Act administered by the Minister that imposes a tax or is prescribed by the regulations, the Minister may apply the amount of the overpayment to the liability and, in that case, the Minister shall notify the person that the action has been taken. 1994, c. 18, s. 4 (13).

Recovery of refund or rebate wrongly obtained

(9) If a refund or rebate is made under this Act or the regulations to a person and it is subsequently determined that the person was not entitled to the refund or rebate, or was entitled only to a refund or rebate in a lesser amount, the amount of the refund or rebate to which the person was not entitled shall, for the purposes of this Act, be deemed to be tax imposed by

section 2 which was required to have been paid by the person on the date the refund or rebate was made to the person by the Minister. 2017, c. 8, Sched. 16, s. 2.

Section Amendments with date in force (d/m/y)

1994, c. 18, s. 4 (5, 11-13) - 23/06/1994; 1996, c. 18, s. 11 (5) - 01/06/1996; 1997, c. 10, s. 15 (2) - 07/05/1997; 1997, c. 19, s. 12 (2) - 10/10/1997; 1997, c. 43, Sched. F, s. 6 (1-3) - 18/12/1997; 1998, c. 34, s. 87 - 18/12/1998

2000, c. 42, s. 68 (1, 2) - 01/01/1998

2002, c. 22, s. 135 (1, 2) - 01/01/2003

2004, c. 31, Sched. 21, s. 13 (1, 2) - 16/12/2004

2016, c. 37, Sched. 13, s. 6 (1, 2) - 08/12/2016

2017, c. 8, Sched. 16, s. 2 - 17/05/2017

9 REPEALED: 2017, c. 8, Sched. 16, s. 3.

Section Amendments with date in force (d/m/y)

1994, c. 18, s. 4 (14) - 20/05/1993; 1996, c. 18, s. 12 (1-3) - 08/05/1996; 1996, c. 24, s. 32 - 19/07/1989; 1997, c. 10, s. 16 - 07/05/1997

2008, c. 7, Sched. K, s. 2 - 14/12/2007

2016, c. 37, Sched. 13, s. 7 (1-4) - 08/12/2016

2017, c. 8, Sched. 16, s. 3 - 17/05/2017

9.1 REPEALED: 2004, c. 31, Sched. 21, s. 14.

Section Amendments with date in force (d/m/y)

1994, c. 18, s. 4 (15) - 23/06/1994

2004, c. 31, Sched. 21, s. 14 - 16/12/2004

Refund on purchase of qualifying home

Definitions

9.2 (1) In this section,

“newly constructed home” means a home in respect of which the purchaser is entitled to a warranty under section 13 of the *Ontario New Home Warranties Plan Act* and which is sold to the purchaser by a vendor as defined in that Act; (“logement neuf”)

“permanent resident of Canada” means a permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada); (“résident permanent du Canada”)

“purchaser” means,

- (a) if the conveyance or disposition of the qualifying home occurs before January 1, 2017, an individual who is at least 18 years of age and who has never owned an eligible home anywhere in the world and whose spouse has not owned an eligible home anywhere in the world while he or she was a spouse of the individual,
- (b) if the conveyance or disposition of the qualifying home occurs on or after January 1, 2017 and the agreement of purchase and sale for the home is entered into on or before November 14, 2016, an individual who is at least 18 years of age, and who has never owned an eligible home anywhere in the world and whose spouse has not owned an eligible home anywhere in the world while he or she was a spouse of the individual, and
- (c) if the conveyance or disposition of the qualifying home occurs on or after January 1, 2017 and the agreement of purchase and sale for the home is entered into after November 14, 2016, an individual who is at least 18 years of age, who is a Canadian citizen or permanent resident of Canada, and who has never owned an eligible home anywhere in the world and whose spouse has not owned an eligible home anywhere in the world while he or she was a spouse of the individual; (“acheteur”)

“qualifying home” means,

- (a) for agreements of purchase and sale entered into before December 14, 2007, a newly constructed home, and

- (b) for agreements of purchase and sale entered into after December 13, 2007, an eligible home. (“logement admissible”) 1996, c. 18, s. 13; 1999, c. 6, s. 32 (3); 2005, c. 5, s. 36 (3); 2008, c. 7, Sched. K, s. 3 (1, 2); 2016, c. 37, Sched. 13, s. 8 (1, 2).

Eligible home

(1.1) For the purposes of this section, an eligible home is,

- (a) a detached house;
- (b) a semi-detached house, including a dwelling house that is joined to another dwelling house at the footing or foundation by a wall above or below grade or both above and below grade;
- (c) a townhouse;
- (d) a share or shares of the capital stock of a co-operative corporation if the share or shares are acquired for the purpose of acquiring the right to inhabit a housing unit owned by the corporation;
- (e) a mobile home that complies with the Canadian Standards Association Standard CAN/CSA-Z240 Mobile Homes and is suitable for year round permanent residential occupation;
- (f) a condominium unit;
- (g) a residential dwelling that is a duplex, triplex or fourplex;
- (h) a partial ownership interest as a tenant in common of real property if the ownership interest was acquired for the purpose of acquiring the right to inhabit a housing unit forming part of the real property;
- (i) a manufactured home that is manufactured in whole or in part at an offsite location, that is intended for basement installation, that is suitable for year round permanent residential occupation and that complies with,
 - (i) the Building Code made under the *Building Code Act, 1992*,
 - (ii) if the manufactured home is constructed in sections that are not wider than 4.3 metres, Canadian Standards Association Standard Z240.2.1 Structural Requirements for Mobile Homes and Canadian Standards Association Standard Z240.8.1 Windows for Use in Mobile Homes, or
 - (iii) if the manufactured home is constructed in sections that are 4.3 metres or wider, Canadian Standards Association Standard A277 Procedure for Certification of Factory Built Houses; or
- (j) any other residential property as may be prescribed. 2008, c. 7, Sched. K, s. 3 (3).

Refund

(2) The Minister may refund, in the manner he or she directs and without interest, tax payable under this Act by a purchaser in respect of the acquisition by the purchaser of a qualifying home to be used by the purchaser as his or her principal residence,

- (a) if the conveyance or the disposition for which the tax is payable under this Act in respect of the home occurs on or after May 8, 1996; and
- (b) if the purchaser occupies the home as his or her principal residence no later than nine months after the date of the conveyance or disposition. 2001, c. 23, s. 143; 2008, c. 7, Sched. K, s. 3 (4).

Same

(2.0.1) If an individual who would otherwise be eligible for a refund under subsection (2) is not eligible because the individual is not a purchaser within the meaning of subsection (1) because the individual is not a Canadian citizen or permanent resident of Canada on the date of the conveyance or disposition, that individual is eligible for the refund if he or she becomes a Canadian citizen or permanent resident of Canada within 18 months after the date of the conveyance or disposition. 2016, c. 37, Sched. 13, s. 8 (3).

Maximum refund

(2.1) If the agreement of purchase and sale is entered into by the purchaser after March 31, 1999, the maximum amount of tax refundable under subsection (2) in respect of the acquisition of a qualifying home is,

- (a) \$2,000 if the conveyance or disposition of the home occurs before January 1, 2017; and
- (b) \$4,000 if the conveyance or disposition of the home occurs on or after January 1, 2017. 2016, c. 37, Sched. 13, s. 8 (4).

Maximum refund

(3) If the purchaser is not the only transferee named in the conveyance, the refund payable under subsection (2) to the purchaser shall be reduced to the portion of the refund, determined for all transferees, applicable to,

- (a) the purchaser's interest acquired under the conveyance; and
- (b) subject to subsection (4), the interest of the spouse of the purchaser who previously owned an eligible home anywhere in the world prior to the time he or she became the spouse of the purchaser, if the spouse is named in the conveyance. 1996, c. 18, s. 13; 1999, c. 6, s. 32 (4); 2005, c. 5, s. 36 (4); 2017, c. 8, Sched. 16, s. 4 (1).

Exception, spouse's interest

(4) Subject to subsection (4.1), the interest of the spouse referred to in clause (3) (b) shall not be included in the purchaser's refund if,

- (a) the conveyance or disposition of the qualifying home occurs on or after January 1, 2017 and the agreement of purchase and sale for the home is entered into after November 14, 2016; and
- (b) the spouse is not a Canadian citizen or a permanent resident of Canada on the date of the conveyance or disposition. 2017, c. 8, Sched. 16, s. 4 (2).

Inclusion in certain circumstances

(4.1) The interest of the spouse may be included in the purchaser's refund in the circumstances set out in subsection (4) if the spouse becomes a Canadian citizen or a permanent resident of Canada within 18 months after the date of the conveyance or disposition of the qualifying home. 2017, c. 8, Sched. 16, s. 4 (2).

Limitation

(5) An application for a refund under this section shall be made before the expiration of 18 months after the date on which the conveyance or the disposition for which the tax is payable under this Act in respect of the home occurs. 2000, c. 10, s. 19 (3).

Information in application

(6) All information in an application for a refund under this section shall be available to the public. 2004, c. 31, Sched. 21, s. 15.

False or misleading statements

(7) Every person is guilty of an offence who makes or assists in making a statement in an application for a refund under this section, or in any document in connection therewith, that, at the time and in light of the circumstances under which it was made, is false or misleading in respect of any fact, or that omits to state any fact the omission of which makes the statement false or misleading. 2017, c. 8, Sched. 16, s. 4 (3).

Penalty

(8) Every person who is guilty of an offence under subsection (7) is liable on conviction to a fine of not more than \$4,000. 2017, c. 8, Sched. 16, s. 4 (3).

Section Amendments with date in force (d/m/y)

1996, c. 18, s. 13 - 08/05/1996; 1999, c. 6, s. 32 (3, 4) - 01/03/2000; 1999, c. 9, s. 134 (1) - 01/04/1999

2000, c. 10, s. 19 (2, 3) - 01/04/2000

2001, c. 23, s. 143 - 05/12/2001

2004, c. 31, Sched. 21, s. 15 - 16/12/2004

2005, c. 5, s. 36 (3, 4) - 09/03/2005

2008, c. 7, Sched. K, s. 3 (1-5) - 14/12/2007

2016, c. 37, Sched. 13, s. 8 (1-4) - 08/12/2016

2017, c. 8, Sched. 16, s. 4 (1-3) - 17/05/2017

Records to be kept

9.3 (1) Every person required by section 5 to make a statement or affidavit or to deliver a return shall keep at their place of residence in Ontario or at their principal place of business in Ontario such documents, records and accounts in such form and

containing such information as will enable an accurate determination of the taxes payable under this Act. 2004, c. 31, Sched. 21, s. 16.

Same, designated collectors

(2) Every designated collector shall keep at the designated collector's principal place of business in Ontario documents, records and accounts in such form and containing such information as will enable an accurate determination of the taxes collectable, collected and remitted under this Act. 2004, c. 31, Sched. 21, s. 16.

Same

(3) Every designated collector shall keep at the designated collector's principal place of business in Ontario documents, records and accounts in such form and containing such information as will enable the verification of information that the designated collector is required under subsection 5.2 (3) to give to the Minister. 2004, c. 31, Sched. 21, s. 16.

Duration

(4) A person required to keep documents, records and accounts shall do so for a period of seven years after the date on which the conveyance to which they relate is registered or the information to which they relate is given to the Minister, as the case may be, unless written permission for earlier disposal is received from the Minister. 2004, c. 31, Sched. 21, s. 16.

Section Amendments with date in force (d/m/y)

2004, c. 31, Sched. 21, s. 16 - 16/12/2004

Audit and inspection

10 (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 where anything is done in connection with any business or where any books or records are or should be kept 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 to an amount payable under this Act;
- (b) examine property described in any conveyance or any property, process or matter an examination of which may, in his or her opinion, assist him or her in determining the accuracy of any statement, affidavit or return required by this Act or in ascertaining the information that is or should be in the books or records or in a statement, affidavit or return, or in ascertaining any amount payable under this Act; and
- (c) require a designated collector, an officer, director, agent or representative of a designated collector, a transferee who is liable or possibly liable to pay tax under this Act, an officer, director, agent or representative of that transferee or any person on the premises,
 - (i) to give him or her all reasonable assistance with his or her audit or examination,
 - (ii) to answer all questions relating to the audit or examination either orally or, if he or she so requires, in writing, on oath or by statutory declaration, and
 - (iii) to attend at the premises or place with him or her for the purposes of giving reasonable assistance and answering questions relating to the audit or examination.
- (d) REPEALED: 2004, c. 31, Sched. 21, s. 17 (2).

R.S.O. 1990, c. L.6, s. 10 (1); 2004, c. 31, Sched. 21, s. 17 (1, 2).

Demand for information

(2) The Minister may, for any purpose relating to the administration or enforcement of this Act, serve on any person personally, by registered mail or by a courier service a written demand for information or for the production on oath or otherwise of books, letters, accounts, invoices, financial statements or such other documents as the Minister or the person authorized by the Minister to make the demand considers necessary to determine compliance with this Act. 2004, c. 31, Sched. 21, s. 17 (3).

Deemed receipt of registered mail

(2.0.1) A demand served by registered mail under subsection (2) is deemed to have been received on the fifth day after the day of mailing unless the person establishes that, although acting in good faith, the person did not receive it or did not receive it until a later date. 2011, c. 9, Sched. 22, s. 1.

Same

(2.1) A person in receipt of a demand under subsection (2) shall comply with the demand within the time specified in the demand. 2004, c. 31, Sched. 21, s. 17 (3).

Copies as evidence

(3) Where a book, record or other document has been examined or produced under this section, the person by whom it is examined or to whom it is produced, or any officer of the Ministry of Finance, may make or cause to be made one or more copies thereof, and a document purporting to be certified by the Minister or a person authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way. 2004, c. 31, Sched. 21, s. 17 (4).

Admission of evidence

(3.1) The Minister, or a person authorized by the Minister, may, for any purpose relating to the administration or enforcement of this Act, reproduce from original data stored electronically any document previously issued by the Minister under this Act, and the electronically reproduced document is admissible in evidence and shall have the same probative force as the original document would have had if it had been proven in the ordinary way. 1994, c. 18, s. 4 (17).

Same

(3.2) If a return, document or any other information has been delivered by a person to the Minister on computer disk or other electronic medium, or by electronic filing as permitted under this Act, a document, accompanied by the certificate of the Minister, or of a person authorized by the Minister, stating that the document is a print-out of the return, document or information received by the Minister from the person and certifying that the information contained in the document is a true and accurate representation of the return, document or information delivered by the person, is admissible in evidence and shall have the same probative force as the original return, document or information would have had if it had been delivered in paper form. 1994, c. 18, s. 4 (17).

Same

(3.3) If the data contained on a return or other document received by the Minister from a person is stored electronically by the Minister on computer disk or other electronic medium and the return or other document has been destroyed by a person so authorized by the Minister, a document, accompanied by the certificate of the Minister, stating that the document is a print-out of the data contained on the return and other document received and stored electronically by the Minister and certifying that the information contained in the document is a true and accurate representation of the data contained on the return or document delivered by the person, is admissible in evidence and shall have the same probative force as the original return or document would have had if it had been proved in the ordinary way. 1994, c. 18, s. 4 (17).

Compliance

(4) No person shall hinder or molest or interfere with any person doing anything that he or she is authorized by this section to do or shall prevent or attempt to prevent any person doing any such thing, and despite any other law to the contrary, every person shall, unless the person is unable to do so, do everything the person is required by this section to do. R.S.O. 1990, c. L.6, s. 10 (4).

Offence

(5) Every person who has failed to comply with or has contravened this section is guilty of an offence and, in addition to any penalty otherwise provided, is liable on conviction to a fine of \$50 for each day during which the default continues. R.S.O. 1990, c. L.6, s. 10 (5).

Section Amendments with date in force (d/m/y)

1994, c. 18, s. 4 (16, 17) - 23/06/1994

2004, c. 31, Sched. 21, s. 17 (1-4) - 16/12/2004

2011, c. 9, Sched. 22, s. 1 - 12/05/2011

Administration of oaths

11 A person authorized to administer an oath under the *Land Titles Act* or the *Registry Act* may administer an oath for any of the purposes of this Act. R.S.O. 1990, c. L.6, s. 11.

Assessment

12 (1) The Minister may make an assessment of an amount of tax or penalty required under this Act, together with any interest imposed thereon under this Act,

- (a) if a person responsible for the payment of tax fails to pay it as required under this Act;
- (b) if a person required by section 5.1 to collect and remit tax to the Minister fails to remit the tax as required under this Act or if the amount remitted is not, in the opinion of the Minister, substantiated by the person's records; or
- (c) if a person is liable to pay tax or a penalty imposed under this Act. 2004, c. 31, Sched. 21, s. 18 (1).

Notice of assessment

(2) Where the Minister has made an assessment under subsection (1), the Minister shall send by mail or by registered mail or deliver by personal service a notice of assessment to the person so assessed, and the amount of the assessment shall be remitted to the Minister by the person so assessed within thirty days from the date of mailing or delivery of the notice of assessment. R.S.O. 1990, c. L.6, s. 12 (2).

Idem

(3) Where the Minister has made an assessment under subsection (1), the notice of assessment may provide that the amount assessed is payable forthwith. R.S.O. 1990, c. L.6, s. 12 (3).

Limitation on assessment

(4) The Minister may assess or reassess any person for any tax payable by the person under this Act within four years from the day the tax became payable, except that, where the Minister establishes that a person has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud, in supplying any information under this Act, in making any affidavit required by this Act, or in omitting to disclose any information, or the person has failed to deliver any return required by this Act, the Minister may assess or reassess at any time the Minister considers reasonable the tax payable by such person. R.S.O. 1990, c. L.6, s. 12 (4).

Exception, waiver of limitation

(4.1) Despite subsection (4), the Minister may assess or reassess a person at any time if the person has filed with the Minister a waiver in a form approved by the Minister before the expiry of the time provided in subsection (4). 2004, c. 31, Sched. 21, s. 18 (2).

Revocation of waiver

(4.2) If a person files a waiver under subsection (4.1), the person may file a notice of revocation of the waiver in a form approved by the Minister. 2004, c. 31, Sched. 21, s. 18 (2).

Effect of revocation

(4.3) If a person files a notice of revocation of the waiver under subsection (4.2), the Minister shall not issue an assessment or reassessment under subsection (1) in reliance on the waiver more than one year after the date on which the notice of revocation is filed. 2004, c. 31, Sched. 21, s. 18 (2).

Waiver, transitional

(4.4) Despite subsection (4), if, before December 16, 2004, a person provided the Minister with a written waiver of the time limit, the Minister may assess or reassess the person at any time in respect of the conveyance or disposition to which the waiver applies, and subsections (4.2) and (4.3) apply with necessary modifications in respect of the waiver. 2005, c. 31, Sched. 13, s. 1.

Assessment on inspection

(5) Where it appears from an inspection, audit or examination of the books of account, records or documents of any person that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the amount payable under this Act in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount payable under this Act. R.S.O. 1990, c. L.6, s. 12 (5); 2004, c. 31, Sched. 21, s. 18 (3).

Deemed tax

(5.1) A debt due to the Crown under section 8.1 of the *Financial Administration Act* in respect of a payment or remittance under this Act shall be deemed, when the Minister so assesses, to be tax payable under this Act by the person from whom the payment or remittance is payable, and may be collected and enforced as tax under this Act, except that sections 13 and 14 do not apply. 1994, c. 18, s. 4 (18).

Notice of assessment

(6) The Minister shall send by mail or by registered mail or deliver by personal service a notice of the assessment made under subsection (4), (5) or (5.1) to the person so assessed at the person's latest known address, and the notice may provide that the amount assessed is payable forthwith. R.S.O. 1990, c. L.6, s. 12 (6); 1994, c. 18, s. 4 (19).

Liability to tax not affected

(7) Liability to pay an amount under this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made. R.S.O. 1990, c. L.6, s. 12 (7); 2004, c. 31, Sched. 21, s. 18 (4).

Minister not bound by information

(8) The Minister is not bound by any information delivered by or on behalf of a person responsible for the payment of an amount under this Act and may, despite any information that has been delivered or if no information has been delivered, assess the amount payable under this Act. 2004, c. 31, Sched. 21, s. 18 (5).

Assessment valid and binding

(9) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding despite any error, defect or omission therein or in any proceeding under this Act relating thereto. R.S.O. 1990, c. L.6, s. 12 (9).

Idem

(10) The amount of any assessment is payable within the time required by the notice of assessment whether or not an objection or appeal from the assessment is made or taken. R.S.O. 1990, c. L.6, s. 12 (10).

Security given under s. 5.1 (3)

(11) If the Minister assesses a person who has furnished security under subsection 5.1 (3), all or part of the security may be paid into the Consolidated Revenue Fund in satisfaction of all or part of the person's assessed liability. 2004, c. 31, Sched. 21, s. 18 (6).

Section Amendments with date in force (d/m/y)

1994, c. 18, s. 4 (18, 19) - 23/06/1994; 1996, c. 29, s. 21 - 09/12/1996

2004, c. 31, Sched. 21, s. 18 (1-6) - 16/12/2004

2005, c. 31, Sched. 13, s. 1 - 16/12/2004

General anti-avoidance rule

Definitions

12.1 (1) In this section,

“tax benefit” means a reduction, an avoidance, a deferral or a cancellation of tax or other amount payable under this Act or an increase in a refund or rebate of tax or other amount under this Act; (“avantage fiscal”)

“tax consequences” to a person means the amount of tax, rebate or other amount payable by, or refundable to, the person under this Act, or any other amount that is relevant to the purposes of computing that amount; (“attribut fiscal”)

“transaction” includes an arrangement or event. (“opération”) 2014, c. 7, Sched. 16, s. 1.

Application of section

(2) This section applies to the following transactions:

1. A transaction completed after May 1, 2014, including a transaction that is part of a series of transactions that includes one or more transactions completed on or before May 1, 2014.
2. A transaction completed on or before May 1, 2014, if the transaction is part of a series of transactions that includes one or more transactions completed after May 1, 2014. 2014, c. 7, Sched. 16, s. 1.

General anti-avoidance rule

(3) If a transaction is an avoidance transaction, the tax consequences to a person shall be determined as is reasonable in the circumstances in order to deny a tax benefit that, but for this section, would result, directly or indirectly, from that transaction or from a series of transactions that includes that transaction. 2014, c. 7, Sched. 16, s. 1.

Avoidance transaction

- (4) An avoidance transaction means any transaction,
- (a) that, but for this section, would result, directly or indirectly, in a tax benefit, unless the transaction may reasonably be considered to have been undertaken or arranged primarily for bona fide purposes other than to obtain the tax benefit; or
 - (b) that is part of a series of transactions, which series, but for this section, would result, directly or indirectly, in a tax benefit, unless the transaction may reasonably be considered to have been undertaken or arranged primarily for bona fide purposes other than to obtain the tax benefit. 2014, c. 7, Sched. 16, s. 1.

Provision not applicable

(5) Subsection (3) does not apply in respect of a transaction where it may reasonably be considered that the transaction would not result, directly or indirectly, in a misuse of the provisions of this Act or the regulations or in an abuse having regard to the provisions of this Act or the regulations, other than this section, read as a whole. 2014, c. 7, Sched. 16, s. 1.

Determination of tax consequences

- (6) Without restricting the generality of subsection (3), in any determination under subsection (3) of the tax consequences of a transaction to a person,
- (a) any exemption, refund or rebate may be allowed or disallowed, in whole or in part;
 - (b) any such exemption, refund, rebate or a part thereof may be allocated to any person;
 - (c) the value of the consideration may be determined and may be apportioned among parts of the land or lands being conveyed;
 - (d) the proportional share of the acquisition of or increase in an interest of any kind in land of any person may be determined;
 - (e) any tax payable under section 3 that is deferred or no longer owing may be deemed to be owing as of the thirtieth day after the date of the disposition of a beneficial interest in land;
 - (f) the nature of any transaction, payment or other amount may be recharacterized; and
 - (g) the tax effects that would otherwise result from the application of other provisions of this Act or the regulations may be ignored. 2014, c. 7, Sched. 16, s. 1.

Request for adjustments

(7) If, with respect to a transaction, a notice of assessment, reassessment or additional assessment under section 12 involving the application of subsection (3) with respect to the transaction has been sent to a person, any person (other than a person to whom such a notice has been sent) is entitled, within 180 days after the day of sending of the notice, to request in writing that the Minister make an assessment, a reassessment or an additional assessment, applying subsection (3) with respect to that transaction. 2014, c. 7, Sched. 16, s. 1.

Duties of Minister

(8) On receipt of a request by a person under subsection (7), the Minister shall consider the request and, despite subsection 12 (4), assess, reassess or make an additional assessment under section 12 with respect to the person, except that an assessment, a reassessment or an additional assessment may be made only to the extent that it may reasonably be regarded as relating to the transaction referred to in subsection (7). 2014, c. 7, Sched. 16, s. 1.

Exception

(9) Despite any other provision of this Act, the tax consequences to any person following the application of this section shall only be determined through a notice of assessment, reassessment or additional assessment under section 12 involving the application of this section. 2014, c. 7, Sched. 16, s. 1.

Series of transactions

(10) For the purposes of this section, where there is a reference to a series of transactions, the series shall be deemed to include any related transactions completed in contemplation of the series. 2014, c. 7, Sched. 16, s. 1.

Section Amendments with date in force (d/m/y)

2014, c. 7, Sched. 16, s. 1 - 24/07/2014

Notice of objection

13 (1) A person that objects to an assessment made under section 12 or a statement of disallowance made under subsection 8 (7) may, within 180 days from the day of mailing or delivery by personal service of the notice of assessment or statement of disallowance, serve on the Minister a notice of objection in the form approved by the Minister. 1997, c. 43, Sched. F, s. 6 (4).

Facts and reasons to be given

(1.1) The notice of objection shall,

- (a) clearly describe each issue raised by way of objection; and
- (b) fully set out the facts and reasons relied on by the person in respect of each issue. 1997, c. 43, Sched. F, s. 6 (4).

Same

(1.2) If a notice of objection does not fully set out the facts and reasons relied on by the person in respect of an issue, the Minister may in writing request the person to provide the information, and the person shall be deemed to have complied with clause (1.1) (b) in respect of the issue if the person provides the information to the Minister in writing within 60 days after the day the request is made by the Minister. 1997, c. 43, Sched. F, s. 6 (4).

Computation of time

(1.3) For the purpose of calculating the number of days mentioned in subsection (1), (1.2) or 14 (1), the day on which a notice of assessment or statement is mailed under subsection (1), a request is made under subsection (1.2) or a notification is given under subsection (3) is the date stated in the notice of assessment, statement, request or notification. 1997, c. 43, Sched. F, s. 6 (4).

Limitation

(1.4) A person shall not raise, by way of objection under this section to a fresh statement or reassessment or to a variation of an assessment or statement under subsection (3), any issue that the person is not entitled to raise by way of appeal under section 14 in respect of the fresh statement or reassessment or of a variation of the assessment or statement. 1997, c. 43, Sched. F, s. 6 (4).

Service

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister or by such other method of service as the Minister prescribes. R.S.O. 1990, c. L.6, s. 13 (2); 1997, c. 43, Sched. F, s. 6 (5).

Reconsideration

(3) Upon receipt of a notice of objection, the Minister shall with all due despatch reconsider the assessment or statement of disallowance and vacate, confirm or vary the assessment or statement of disallowance or reassess or serve a fresh statement of disallowance and the Minister shall thereupon notify the person who has made the objection of his or her action in writing. R.S.O. 1990, c. L.6, s. 13 (3); 1997, c. 43, Sched. F, s. 6 (6).

Regulations

(4) The Minister may make regulations prescribing methods of service for the purpose of subsection (2). 1997, c. 43, Sched. F, s. 6 (7).

Section Amendments with date in force (d/m/y)

1997, c. 43, Sched. F, s. 6 (4-7) - 18/12/1997

Assessment, non-arm's length transfers

13.1 (1) In this section,

“member of his or her family” means, in relation to a transferor, the parent, spouse, grandparent, child, grandchild, son-in-law, daughter-in-law, father-in-law or mother-in-law of the transferor. 2001, c. 23, s. 144.

Liability to pay

(2) If at any time a person transfers property (including money), either directly or indirectly, by means of a trust or by any other means to a member of his or her family, to an individual who is less than 18 years old at the time of the transfer, or to another person with whom the transferor is not dealing at arm's length, the transferor and transferee are jointly and severally liable to pay under this Act the amount determined under subsection (4). 2001, c. 23, s. 144; 2005, c. 5, s. 36 (5).

Same

(3) For the purpose of subsection (2), persons shall be deemed not to deal with each other at arm's length if, by reason of subsections 251 (1) to (6) of the *Income Tax Act* (Canada), they are related to each other for the purposes of that Act. 2001, c. 23, s. 144.

Amount payable

(4) The amount referred to in subsection (2) is the lesser of "A" and "B" where,

"A" is the amount, if any, by which the fair market value of the property transferred, at the time of the transfer, exceeds the fair market value, at the time of the transfer, of the consideration given by the transferee for the transfer, and

"B" is the total of all amounts each of which is,

(a) any tax payable by the transferor but not paid as required under this Act,

(b) any penalty or interest for which the transferor is liable under this Act at the time of the transfer.

2001, c. 23, s. 144.

Same

(5) Nothing in subsection (2) or (4) limits the liability of the transferor or transferee under any other provision of this Act. 2001, c. 23, s. 144.

Assessment

(6) The Minister may assess a transferee at any time in respect of any amount payable by reason of this section, and sections 13 and 14 apply, with necessary modifications, to the assessment. 2001, c. 23, s. 144.

Effect of payment

(7) If a transferor and transferee are jointly and severally liable to pay an amount under this section,

(a) a payment by the transferee on account of the transferee's liability discharges the joint liability, to the extent of the payment; and

(b) a payment by the transferor on account of the transferor's liability under this Act discharges the transferee's liability under this section to the extent that the payment reduces the balance of the transferor's liability under this Act to an amount less than the amount of the transferee's liability under this section. 2001, c. 23, s. 144.

Exception

(8) Subsection (2) does not apply with respect to a transfer of property (including money) between spouses,

(a) under a decree, order or judgment of a competent tribunal; or

(b) under a written separation agreement if, at the time of the transfer, the transferor and transferee were living separate and apart as a result of a breakdown of their relationship. 2001, c. 23, s. 144; 2005, c. 5, s. 36 (6).

Section Amendments with date in force (d/m/y)

2001, c. 23, s. 144 - 05/12/2001

2005, c. 5, s. 36 (5, 6) - 09/03/2005

Appeal

14 (1) After the Minister has given the notification required by subsection 13 (3), a person who has served notice of objection under section 13 may appeal to the Superior Court of Justice to have the assessment or the statement of disallowance vacated or varied or reassessed or a fresh statement of disallowance issued, but no appeal under this section shall be instituted after the expiration of ninety days from the day on which notice has been mailed to such person under subsection 13 (3). R.S.O. 1990, c. L.6, s. 14 (1); 2001, c. 23, s. 145 (1).

Appeal, how instituted

(2) An appeal to the Superior Court of Justice shall be instituted by,

(a) filing a notice of appeal with the court in the form approved by the Minister;

(b) paying a fee to the court in the same amount and manner as the fee payable under regulations made under the *Administration of Justice Act* on the issue of a statement of claim; and

(c) serving on the Minister a copy of the notice of appeal as filed. 1997, c. 43, Sched. F, s. 6 (8); 2001, c. 23, s. 145 (2).

Limitation

(2.1) A person is entitled to raise by way of appeal only those issues raised by the person in a notice of objection to the assessment or statement being appealed and in respect of which the person has complied or was deemed to have complied with subsection 13 (1.1). 1997, c. 43, Sched. F, s. 6 (8).

Exception

(2.2) Despite subsection (2.1), a person may raise by way of appeal an issue forming the basis of a fresh statement or reassessment or of a variation of an assessment or statement under subsection 13 (3) if the issue was not part of the assessment or statement with respect to which the person served the notice of objection. 1997, c. 43, Sched. F, s. 6 (8).

Application, subss. (2.1) and (2.2)

(2.3) Subsections (2.1) and (2.2) apply only in respect of appeals in respect of which the period of 90 days referred to in subsection (1) begins after December 31, 1997. 1997, c. 43, Sched. F, s. 6 (8).

Waived right of objection or appeal

(2.4) Despite subsection (1), no person shall institute an appeal under this section to have an assessment or statement vacated or varied in respect of an issue for which the right of objection or appeal has been waived in writing by or on behalf of the person. 1997, c. 43, Sched. F, s. 6 (8).

Service

(3) A notice of appeal shall be served on the Minister by being sent by registered mail addressed to the Minister. R.S.O. 1990, c. L.6, s. 14 (3).

Contents of notice of appeal

(4) The person appealing shall set out in the notice of appeal a statement of the allegations of fact and the statutory provisions and reasons that the person intends to submit in support of the appeal. R.S.O. 1990, c. L.6, s. 14 (4).

Reply to notice of appeal

(5) The Minister shall with all due dispatch serve on the appellant and file with the Superior Court of Justice a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such allegations of fact and of such statutory provisions and reasons as the Minister intends to rely on, and where the Minister fails to serve the reply within 180 days from the date of service upon the Minister of the notice under subsection (2), the appellant may, upon twenty-one days notice to the Minister, apply to a judge of the Superior Court of Justice for an order requiring the reply to be served within such time as the judge shall order, and the judge may, if the judge considers it proper in the circumstances, also order that, upon the failure of the Minister to serve the reply in the time specified by the order, the assessment or statement of disallowance with respect to which the appeal is taken shall be vacated and any tax paid pursuant to such assessment, or any refund disallowed pursuant to such statement of disallowance, shall be repaid or refunded to the appellant, but nothing in this section revives an appeal that is void or affects a statement of disallowance or assessment that has become valid and binding. R.S.O. 1990, c. L.6, s. 14 (5); 1999, c. 9, s. 135; 2001, c. 23, s. 145 (3).

Matter deemed action

(6) Upon the filing in the Superior Court of Justice of the material referred to in subsection (5), the matter shall be deemed to be an action in the court, and the practice and procedure of the court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter that is deemed to be an action under this subsection, 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. 1990, c. L.6, s. 14 (6); 2001, c. 23, s. 145 (4).

Disposition of appeal

(7) The court may dispose of an appeal by allowing it, by dismissing it, or by allowing it in part and directing the Minister to vacate, vary or reconsider the assessment or statement of disallowance and reassess or issue a fresh statement of disallowance as indicated by the judgment of the court. R.S.O. 1990, c. L.6, s. 14 (7).

Idem

(8) In delivering judgment disposing of an appeal, the court may order payment or refund of an amount by the appellant or by the Minister, as the case may be, and may make such order as to costs as is considered proper. R.S.O. 1990, c. L.6, s. 14 (8); 1994, c. 18, s. 4 (5); 2004, c. 31, Sched. 21, s. 19.

Irregularities

(9) No assessment shall be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of any person in the observance of any directory provision of this Act. R.S.O. 1990, c. L.6, s. 14 (9).

Extension of time

(10) The time within which a notice of objection is to be served or an appeal is to be instituted may be extended by the Minister if application for extension is made,

- (a) in respect of a notice of objection under subsection 13 (1),
 - (i) before the expiration of the time allowed under that subsection for service of notice of the objection, or
 - (ii) within one year from the day of mailing or delivery by personal service of the notice of assessment or statement of disallowance that is the subject of the objection where the person wishing to make objection furnishes to the Minister an explanation satisfactory to the Minister that explains why the notice of objection could not be served in accordance with subsection 13 (1); or
- (b) with respect to an appeal, before the expiry of the time allowed under subsection (1) for instituting the appeal. R.S.O. 1990, c. L.6, s. 14 (10); 2006, c. 33, Sched. P, s. 3.

Section Amendments with date in force (d/m/y)

1994, c. 18, s. 4 (5) - 23/06/1994; 1997, c. 43, Sched. F, s. 6 (8) - 18/12/1997; 1999, c. 9, s. 135 - 14/12/1999

2001, c. 23, s. 145 (1-4) - 05/12/2001

2004, c. 31, Sched. 21, s. 19 - 16/12/2004

2006, c. 33, Sched. P, s. 3 (1, 2) - 20/12/2006

Application under subrule 14.05 (2), Rules of Civil Procedure

14.1 (1) If the following conditions are satisfied, a person may make an application under subrule 14.05 (2) of the Rules of Civil Procedure to a judge of the Superior Court of Justice:

1. The application is to determine one or more issues of law that depend solely on the interpretation of,
 - i. this Act or the regulations, or
 - ii. this Act or the regulations and another Ontario statute or regulation.
2. The Minister has indicated in writing that the Minister is satisfied that it is in the public interest for the applicant to make the application.
3. The Minister and the applicant have executed a statement of agreed facts on which they both intend to rely and the applicant files the statement as part of the applicant's application record.
4. No facts remain in dispute between the Minister and the applicant that either of them believes may be relevant to the determination of any issue of law that is a subject of the application. 2006, c. 33, Sched. P, s. 4.

Application of rule 38.10, Rules of Civil Procedure

(2) Rule 38.10 of the Rules of Civil Procedure does not apply to an application referred to in this section, except that the presiding judge may, on the hearing of the application, adjourn the application in whole or in part and with or without terms under clause 38.10 (1) (a). 2006, c. 33, Sched. P, s. 4.

Disposition of application

- (3) The court may dispose of an application that is authorized under this section by,
- (a) making a declaration of law in respect of one or more issues of law forming the subject of the application;
 - (b) declining to make a declaration of law in respect of any of the issues of law forming the subject of the application; or
 - (c) dismissing the application. 2006, c. 33, Sched. P, s. 4.

Effect of declaration of law

- (4) No declaration of law made on an application under this section,
- (a) shall be binding on the Minister and the applicant except in relation to the facts agreed to by them in the proceeding; or
 - (b) shall otherwise affect the rights of the Minister or the applicant in any appeal instituted under this Act. 2006, c. 33, Sched. P, s. 4.

No applications under subrule 14.05 (3)

(5) No person other than the Minister may bring an application under subrule 14.05 (3) of the Rules of Civil Procedure on or after December 20, 2006, in respect of any matter arising under this Act. 2006, c. 33, Sched. P, s. 4; 2016, c. 37, Sched. 13, s. 9.

Other proceedings

(6) On the motion of the Minister, the court shall dismiss a proceeding commenced by an application under rule 14.05 of the Rules of Civil Procedure relating to a matter under this Act or the regulations if any condition in subsection (1) has not been satisfied or the application is prohibited under subsection (5). 2006, c. 33, Sched. P, s. 4.

Section Amendments with date in force (d/m/y)

2006, c. 33, Sched. P, s. 4 - 20/12/2006

2016, c. 37, Sched. 13, s. 9 - 08/12/2016

Recovery of tax

15 (1) Upon default of payment of an amount assessed under section 12,

- (a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or the Minister's name of office and may be continued by the Minister's successor in office as if no change had occurred and shall be tried without a jury; and
- (b) the Minister may issue a warrant directed to the sheriff of the area in which any property of a person assessed under this Act is located or situate for the amount owing under this Act by the person, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Superior Court of Justice on a judgment in favour of the Crown. R.S.O. 1990, c. L.6, s. 15 (1); 2001, c. 23, s. 146; 2004, c. 31, Sched. 21, s. 20 (1).

Application of subrule 60.07 (2), Rules of Civil Procedure

(2) Subrule 60.07 (2) of the Rules of Civil Procedure does not apply in respect of a warrant issued by the Minister under clause (1) (b). 2011, c. 9, Sched. 22, s. 2.

Security for tax

(3) Where the Minister considers it advisable to do so, the Minister may accept security for the payment of taxes in any form that the Minister considers satisfactory. R.S.O. 1990, c. L.6, s. 15 (3); 2004, c. 31, Sched. 21, s. 20 (2).

(4) REPEALED: 1994, c. 18, s. 4 (20).

Compliance to be proved by affidavit

(5) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Finance. R.S.O. 1990, c. L.6, s. 15 (5); 1994, c. 18, s. 4 (16).

Remedies for recovery of tax

(6) The use of any of the remedies provided by this section does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any amount required under this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of the Crown. R.S.O. 1990, c. L.6, s. 15 (6); 2004, c. 31, Sched. 21, s. 20 (3).

Section Amendments with date in force (d/m/y)

1994, c. 18, s. 4 (16, 20) - 23/06/1994

2001, c. 23, s. 146 - 05/12/2001

2004, c. 31, Sched. 21, s. 20 (1-3) - 16/12/2004

2011, c. 9, Sched. 22, s. 2 - 12/05/2011

Recovery of costs

15.0.1 The Minister is entitled to recover from a person the reasonable costs and charges incurred by or on behalf of the Minister in the course of obtaining payment of any amount required to be paid under this Act by the person, if the costs and charges relate to any of the following things:

1. Service of a notice or other document.
2. Registration of a notice of lien and charge, including any charges for related searches and for enforcement activities.
3. An action under clause 15 (1) (a) for the recovery of any amount payable under this Act.
4. Issuance and execution of a warrant referred to in clause 15 (1) (b), to the extent that the costs and charges are not recovered by the sheriff upon execution of the warrant.
5. Other prescribed payments made by or on behalf of the Minister to a third party. 2011, c. 9, Sched. 22, s. 3.

Section Amendments with date in force (d/m/y)

2011, c. 9, Sched. 22, s. 3 - 12/05/2011

Lien on real property

15.1 (1) Any tax payable or required to be remitted under this Act by any taxpayer is, upon registration by the Minister in the proper land registry office of a notice claiming a lien and charge conferred by this section, a lien and charge on any interest the taxpayer liable to pay or remit the tax has in the real property described in the notice. 1994, c. 18, s. 4 (21).

Lien on personal property

(2) Any tax payable or required to be remitted under this Act by any taxpayer is, upon registration by the Minister with the registrar under the *Personal Property Security Act* of a notice claiming a lien and charge under this section, a lien and charge on any interest in personal property in Ontario owned or held at the time of registration or acquired afterwards by the taxpayer liable to pay or remit the tax. 1994, c. 18, s. 4 (21).

Amounts included and priority

(3) The lien and charge conferred by subsection (1) or (2) is in respect of all amounts for which the taxpayer is liable under this Act at the time of registration of the notice or any renewal of it and all amounts for which the taxpayer afterwards becomes liable while the notice remains registered and, upon registration of a notice of lien and charge, the lien and charge has priority over,

- (a) any perfected security interest registered after the notice is registered;
- (b) any security interest perfected by possession after the notice is registered; and
- (c) any encumbrance or other claim that is registered against or that otherwise arises and affects the taxpayer's property after the notice is registered. 1994, c. 18, s. 4 (21).

Exception

(4) For the purposes of subsection (3), a notice of lien and charge under subsection (2) does not have priority over a perfected purchase money security interest in collateral or its proceeds and shall be deemed to be a security interest perfected by registration for the purpose of the priority rules under section 28 of the *Personal Property Security Act*. 1994, c. 18, s. 4 (21).

Lien effective

(5) A notice of lien and charge under subsection (2) is effective from the time assigned to its registration by the registrar or branch registrar and expires on the fifth anniversary of its registration unless a renewal notice of lien and charge is registered under this section before the end of the five-year period, in which case the lien and charge remains in effect for a further five-year period from the date the renewal notice is registered. 1994, c. 18, s. 4 (21); 2001, c. 23, s. 147 (1).

Same

(6) If taxes remain outstanding and unpaid at the end of the period, or its renewal, referred to in subsection (5), the Minister may register a renewal notice of lien and charge; the lien and charge remains in effect for a five-year period from the date the renewal notice is registered, until the amount is fully paid, and shall be deemed to be continuously registered since the initial notice of lien and charge was registered under subsection (2). 2001, c. 23, s. 147 (2).

Where taxpayer not registered owner

(7) Where a taxpayer has an interest in real property but is not shown as its registered owner in the proper land registry office,

- (a) the notice to be registered under subsection (1) shall recite the interest of the taxpayer in the real property; and
- (b) a copy of the notice shall be sent to the registered owner at the owner's address to which the latest notice of assessment under the *Assessment Act* has been sent. 1994, c. 18, s. 4 (21).

Secured party

(8) In addition to any other rights and remedies, if taxes or other amounts owed by a taxpayer remain outstanding and unpaid, the Minister has, in respect of a lien and charge under subsection (2),

- (a) all the rights, remedies and duties of a secured party under sections 17, 59, 61, 62, 63 and 64, subsections 65 (4), (5), (6) and (7) and section 66 of the *Personal Property Security Act*;
- (b) a security interest in the collateral for the purpose of clause 63 (4) (c) of that Act; and
- (c) a security interest in the personal property for the purposes of sections 15 and 16 of the *Repair and Storage Liens Act*, if it is an article as defined in that Act. 1994, c. 18, s. 4 (21).

Registration of documents

(9) A notice of lien and charge under subsection (2) or any renewal of it shall be in the form of a financing statement or a financing change statement as prescribed under the *Personal Property Security Act* and may be tendered for registration at a branch office established under Part IV of that Act, or by mail addressed to an address prescribed under that Act. 1994, c. 18, s. 4 (21).

Errors in documents

(10) A notice of lien and charge or any renewal thereof is not invalidated nor is its effect impaired by reason only of an error or omission in the notice or in its execution or registration, unless a reasonable person is likely to be materially misled by the error or omission. 1994, c. 18, s. 4 (21).

Bankruptcy and Insolvency Act (Canada) unaffected

(11) Subject to Crown rights provided under section 87 of the *Bankruptcy and Insolvency Act* (Canada), nothing in this section affects or purports to affect the rights and obligations of any person under that Act. 1994, c. 18, s. 4 (21).

Definitions

(12) In this section,

“real property” includes fixtures and any interest of a taxpayer as lessee of real property; (“bien immeuble”)

“taxpayer” means any person assessed under this Act for tax, interest or penalties. (“contribuable”) 1994, c. 18, s. 4 (21).

Section Amendments with date in force (d/m/y)

1994, c. 18, s. 4 (21) - 23/06/1994

2001, c. 23, s. 147 (1, 2) - 05/12/2001

Garnishment

16 (1) When the Minister has knowledge or suspects that a person (a “third party”) is, or within 365 days will become, indebted or liable to make any payment to a person (a “tax debtor”) liable to make a payment under this Act, the Minister may, by registered letter or by letter served personally, require the third party to promptly pay to the Minister any money that is otherwise payable by the third party to the tax debtor in whole or in part during the 365 days after the third party receives the letter. 2001, c. 23, s. 148 (1).

Garnishment, loans and advances

(1.1) If the Minister has knowledge or suspects that within 365 days,

- (a) a bank, credit union, trust corporation or other similar person (in this section referred to as the “institution”) will loan or advance money to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by a person liable to make a payment under this Act, who is indebted to the institution and who has granted security in respect of the indebtedness; or

- (b) a person other than an institution will loan or advance money to or make a payment on behalf of a person who is liable to make a payment under this Act and who the Minister knows or suspects,
- (i) is employed by or engaged in providing services or property to that person or who was or will within 365 days be so employed or engaged, or
 - (ii) is not dealing at arm's length with that person,

the Minister may, by registered letter, or by letter served personally, require the institution or person, as the case may be, to pay forthwith to the Minister on account of the liability of the person liable to make a payment under this Act all or part of the money that would otherwise have been loaned, advanced or paid, and any money paid to the Minister shall be deemed to have been loaned, advanced or paid, as the case may be, to the person liable to make a payment under this Act. 2012, c. 8, Sched. 29, s. 2.

Idem

(2) The receipt of the Minister for money paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment. R.S.O. 1990, c. L.6, s. 16 (2); 1994, c. 18, s. 4 (5).

Liability of debtor

(3) Every person who has discharged any liability to a person liable to make a payment under this Act without complying with the requirements under this section is liable to pay to the Minister an amount equal to the liability discharged or the amount that the person was required under this section to pay to the Minister, whichever is the lesser. R.S.O. 1990, c. L.6, s. 16 (3); 1994, c. 18, s. 4 (5).

Same

(3.1) Every institution or person who fails to comply with a requirement under subsection (1.1) with respect to money to be loaned, advanced or paid is liable to pay the Crown in right of Ontario an amount equal to the lesser of,

- (a) the aggregate of money so loaned, advanced or paid; or
- (b) the amount that the institution or person was required under subsection (1.1) to pay to the Minister. 2012, c. 8, Sched. 29, s. 2.

Service on garnishee

(4) If a person (a "third party") who is, or within 365 days will become, indebted or liable to make a payment to a person liable to make a payment under this Act carries on business under a name or style other than the third party's own name, the letter under this section from the Minister to the third party may be addressed using the name or style under which the third party carries on business and, in the case of personal service, the letter shall be deemed to have been validly served if it is left with an adult employed at the place of business of the addressee. 2001, c. 23, s. 148 (2).

Same

(5) If persons ("partners") who are, or within 365 days will become, indebted or liable to make a payment to a person liable to make a payment under this Act carry on business in partnership, the letter under this section from the Minister to the partners may be addressed to the partnership name and, in the case of personal service, the letter shall be deemed to have been validly served if it is served on a partner or left with an adult employed at the place of business of the partnership. 2001, c. 23, s. 148 (2).

Garnishment of wages

(6) Subject to the provisions of the *Wages Act*, where the Minister has under this section required an employer to pay to the Minister on account of an employee's liability under this Act money otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Minister out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally. R.S.O. 1990, c. L.6, s. 16 (6); 1994, c. 18, s. 4 (5).

Failure to remit

(7) Where any person, without reasonable excuse, has failed to remit to the Minister the money as required under this section, the Minister may apply to the Superior Court of Justice for an order directing such person to remit the money which the person has failed to remit. R.S.O. 1990, c. L.6, s. 16 (7); 1994, c. 18, s. 4 (5); 2001, c. 23, s. 148 (3).

Section Amendments with date in force (d/m/y)

1994, c. 18, s. 4 (5) - 23/06/1994

2001, c. 23, s. 148 (1-3) - 05/12/2001

2012, c. 8, Sched.29, s. 2 - 20/06/2012

Interest

17 (1) If on a particular date a debt as calculated under subsection (2) is payable by any person, the person shall be charged interest payable to the Minister at the prescribed rate and calculated in the prescribed manner on the amount of the debt from that date to the date the amount is received by the Minister. 1994, c. 18, s. 4 (22).

Amount of debt calculation

(2) In this section, the amount of the debt payable by a person under this Act at a particular date is the amount by which,

(a) the aggregate of,

(i) all tax under this Act that is payable or collectable by the person before that date,

(ii) all amounts or penalties or both assessed under this Act against the person at any time before that date, and

(iii) the total of all amounts charged under this section against the person in respect of a period of time ending before that date,

exceeds,

(b) the aggregate of,

(i) the amount of all taxes remitted or paid by the person under this Act and the amount of any refund owing under any other Act that has been applied by the Minister to the person's liabilities under this Act prior to that date, and

(ii) the total of all amounts of interest credited to the person in respect of a period of time ending before that date. 1994, c. 18, s. 4 (22); 2004, c. 31, Sched. 21, s. 21.

Compounding

(3) The interest under subsection (1) shall be compounded daily to the date on which it is paid. 1994, c. 18, s. 4 (22).

Minimum liability

(4) Where the amount of interest is less than a minimum amount to be determined from time to time by the Minister, no interest shall be paid under this section. 1994, c. 18, s. 4 (22).

Interest on penalties

(5) For the purposes of this section, interest on all penalties imposed by this Act shall be calculated from the date the default to which they apply first occurred. 1994, c. 18, s. 4 (22).

Note: Section 17 applies in determining the amount of interest in respect of any day that is on or after July 1, 1993 and, for the purposes of determining the amount of interest in respect of any prior period, section 17 applies as it read before July 1, 1993. See: 1994, c. 18, s. 4 (25).

Section Amendments with date in force (d/m/y)

1994, c. 18, s. 4 (22) - 01/07/1993

2004, c. 31, Sched. 21, s. 21 - 16/12/2004

Transition re rebates and deferred tax

18 (1) References in this section to "the predecessor to this section" are references to this section as it read before its re-enactment, effective on May 7, 1997, by the *Job Growth and Tax Reduction Act, 1997*. 1997, c. 10, s. 18.

Cancellation of deferred tax

(2) If the payment of tax was deferred under the predecessor to this section and if the time for fulfilling the undertaking in respect of which the deferral was granted or extended has not expired on May 6, 1997, the tax is cancelled and is no longer owing. 1997, c. 10, s. 18.

Rebate

(3) If a person is entitled on May 7, 1997 to apply for a rebate under subsection (3) of the predecessor to this section, the rebate shall be made despite that subsection if the Minister receives an application for the rebate before January 1, 1998. However, no interest shall be paid for any period of time after the last day on which the application could have been made under that subsection. 1997, c. 10, s. 18.

Cancellation of tax owing

(4) If a person owes tax and interest on May 7, 1997 because of the failure to fulfil an undertaking in respect of which a deferral was granted or extended under the predecessor to this section, the tax and interest owing on that date are cancelled and no longer owing if the Minister is satisfied that,

- (a) the undertaking was substantially fulfilled after the expiry of the period for fulfilling it but on or before May 6, 1997;
- (b) the failure to fulfil the undertaking was due to circumstances beyond the control of the person who gave the undertaking; or
- (c) on May 6, 1997, the person,
 - (i) had carried on in Ontario for the 12 months immediately preceding May 7, 1997 an active business in which at least five people were employed full-time throughout the 12-month period, and
 - (ii) owns assets (other than the land the conveyance of which gave rise to the tax owing) in Ontario that are at least equal in value to the value of the consideration of the land for the conveyance of which the tax was owing. 1997, c. 10, s. 18.

Compromise or further deferral

(5) If subsections (2), (3) and (4) do not apply and if a person owes tax and interest on May 7, 1997 because of the failure to fulfil an undertaking in respect of which a deferral was granted or extended under the predecessor to this section and no notice of assessment for payment of the tax is issued before May 6, 1997,

- (a) the Minister may cancel the tax and interest owing on May 7, 1997 upon payment to the Minister before January 1, 1998 of an amount equal to one-half of the tax and interest owing on the date of payment; or
- (b) the Minister may further defer the tax and interest owing on May 7, 1997 for a period of not more than seven years beginning on May 7, 1997 and, in that circumstance, the predecessor to this section continues to apply as if subsection (6) of the predecessor to this section referred to seven years instead of one year. 1997, c. 10, s. 18.

Return of security

(6) The Minister shall return to the person who furnished it any security held by the Minister for the payment of tax that is cancelled under this section. The Minister shall do so as soon as practicable after the Minister acknowledges the cancellation of the tax. 1997, c. 10, s. 18; 2004, c. 31, Sched. 21, s. 22.

Section Amendments with date in force (d/m/y)

1997, c. 10, s. 18 - 07/05/1997

2004, c. 31, Sched. 21, s. 22 - 16/12/2004

19 REPEALED: 1997, c. 10, s. 19.

Section Amendments with date in force (d/m/y)

1997, c. 10, s. 19 - 07/05/1997

Resolving disputes

20 If any doubt or dispute arises as to the liability to pay a tax or any portion of a tax demanded under the authority of this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed by this Act, the Minister may accept such amount as he or she deems proper. R.S.O. 1990, c. L.6, s. 20.

Application to disposition of beneficial interest

21 Section 3, subsections 5 (7), (8), (9) and (12), section 6.1, subsections 7.1 (2) and 8 (6), section 17 and clauses 22 (2) (b) and (m) apply with respect to dispositions of beneficial interests in land after the 18th day of July, 1989 other than,

- (a) beneficial interests in land acquired pursuant to an agreement in writing to acquire the beneficial interest entered into before the 19th day of July, 1989 or as part of a lawful distribution to the public in accordance with a prospectus, preliminary prospectus or registration statement filed before the 19th day of July, 1989 with a public authority in Canada in accordance with the applicable securities legislation of Canada or of any province and, where required by law, accepted for filing by that public authority; and
- (b) beneficial interests in land acquired before the 1st day of January, 1990 where arrangements in writing for the disposition were substantially advanced before the 19th day of July, 1989. R.S.O. 1990, c. L.6, s. 21; 1997, c. 10, s. 20; 2004, c. 31, Sched. 21, s. 23.

Section Amendments with date in force (d/m/y)

1997, c. 10, s. 20 - 07/05/1997

2004, c. 31, Sched. 21, s. 23 - 16/12/2004

Use and disclosure of certain information

21.1 The Minister may enter into agreements to permit third parties to use information provided under subsection 5 (1) for such purposes and subject to such conditions and restrictions as the Minister considers appropriate. 2004, c. 31, Sched. 21, s. 24.

Section Amendments with date in force (d/m/y)

2004, c. 31, Sched. 21, s. 24 - 16/12/2004

No right to compensation

21.2 Nothing in this Act and no exercise of any power or performance of any duty under section 5.1, 5.2, 5.3 or 21.1 shall be deemed by any court or person to entitle any person to compensation from the Crown under any agreement that purports to provide for compensation, whether the agreement is made before or after section 5.1 comes into force. 2004, c. 31, Sched. 21, s. 24.

Section Amendments with date in force (d/m/y)

2004, c. 31, Sched. 21, s. 24 - 16/12/2004

Forms and regulations

22 (1) The Minister may approve the use and format of forms for any purpose of this Act and the forms may provide for such information to be furnished as the Minister may require. 1997, c. 19, s. 12 (3).

Regulations

(1.1) The Minister may make regulations,

- (a) prescribing land that is included in the definition of “designated land”;
- (b) prescribing areas of land in the Greater Golden Horseshoe Region that are excluded from the definition of “specified region”;
- (c) prescribing areas of land that are included in the definition of “specified region”;
- (d) prescribing an alternate rate of tax for the purposes of subsection 2 (2.1);
- (e) prescribing classes of foreign entities and prescribing requirements to be met for the purposes of the exemption in subsection 2.1 (4);
- (f) prescribing citizenship, residency, educational enrolment, employment or other requirements to be met for the purposes of the rebate in subsection 2.1 (5);
- (g) providing for the payment of interest on a rebate of tax authorized by subsection 2.1 (5), and prescribing the rate of such interest and the method by which it is to be calculated;
- (h) defining “owned” for the purposes of the definition of “purchaser” in subsection 9.2 (1). 2017, c. 17, Sched. 1, s. 7.

Idem

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

- (a) exempting from tax any person tendering or submitting for registration any class of conveyance to which it is determined that this Act was not intended to apply, or any conveyance to persons prescribed for the purpose of this clause;
- (b) exempting from tax arising under section 3 prescribed dispositions or prescribed beneficial interests in land to which it is determined that section 3 was not intended to apply, or exempting from such tax prescribed dispositions of beneficial interests in land to persons prescribed for the purposes of this clause;
- (c) prescribing the meaning of “security” for the purposes of subsection 3 (15);
- (d) providing for the refund of tax in whole or in part owing to special circumstances, and prescribing the terms and conditions under which such refund may be made;
- (e) REPEALED: 1994, c. 18, s. 4 (23).

- (f) providing for the method of calculating and ascertaining the value of the consideration in any case or class of cases;
- (g) REPEALED: 1997, c. 10, s. 21.
- (h) providing for the payment of interest on any refund or rebate of tax authorized by this Act or the regulations, and prescribing the rate of such interest and the method by which it is to be calculated;
- (i) prescribing any matter required by this Act to be prescribed by the regulations;
- (j) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (k) REPEALED: 2017, c. 8, Sched. 16, s. 5.
- (l) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act;
- (m) prescribing anything that is required or permitted by this Act to be prescribed, determined or defined by regulation. R.S.O. 1990, c. L.6, s. 22 (2); 1994, c. 18, s. 4 (23); 1996, c. 18, s. 14 (2, 3); 1997, c. 10, s. 21; 2004, c. 31, Sched. 21, s. 25; 2006, c. 33, Sched. P, s. 5; 2017, c. 8, Sched. 16, s. 5.

Idem

(3) A regulation is, if it so provides, effective with reference to a period before it was filed. R.S.O. 1990, c. L.6, s. 22 (3).

Note: Sections 1, 2, 2.1, 3, 5, 6 and 7, subsections 8 (3) and (5) and sections 9, 19 and 21 as they read immediately before May 7, 1997 continue in force and apply in respect of conveyances tendered or submitted for registration before May 7, 1997 and transfers and dispositions that occur before May 7, 1997. See: 1997, c. 10, s. 22.

Section Amendments with date in force (d/m/y)

1994, c. 18, s. 4 (23) - 23/06/1994, 1996, c. 18, s. 14 (2) - 01/06/1996; 1997, c. 10, s. 21 - 07/05/1997; 1997, c. 19, s. 12 (3) - 10/10/1997
 2004, c. 31, Sched. 21, s. 25 - 16/12/2004
 2006, c. 33, Sched. P, s. 5 - 20/12/2006
 2017, c. 8, Sched. 16, s. 5 - 17/05/2017; 2017, c. 17, Sched. 1, s. 7 - 01/06/2017

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