



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **REVENUE ADMINISTRATION ACT**

## PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to April 1, 2019. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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## REVENUE ADMINISTRATION ACT

### CHAPTER R-13.2

#### 1. Definitions

In this Act

- (a) “**collector**” means a person authorized or required by or pursuant to a revenue Act or by agreement to collect a tax;
- (b) “**Commissioner**” means the Provincial Tax Commissioner provided for by this Act and includes any officer of the Department of Finance authorized to perform any function on behalf of the Commissioner;
- (c) “**inspector**” means
  - (i) an inspector provided for under this Act, or
  - (ii) a member of the Royal Canadian Mounted Police or a police officer appointed by and for a municipality;
- (d) “**Minister**” means the Minister of Finance;
- (e) “**person**” includes a corporation, a municipal corporation, an education authority and a board, commission, committee or authority established for public or local purposes;
- (f) “**revenue Act**” means
  - (i) the *Gasoline Tax Act* R.S.P.E.I. 1988, Cap. G-3,
  - (ii) the *Health Tax Act* R.S.P.E.I. 1988, Cap. H-3,
  - (iii) the *Revenue Tax Act* R.S.P.E.I. 1988, Cap. R-14,
  - (iv) the *Tobacco Tax Act* R.S.P.E.I. 1988, Cap. T-3.11,
  - (v) the *Environment Tax Act* R.S.P.E.I. 1988, Cap. E-8.3,
  - (vi) the *Real Property Transfer Tax Act* R.S.P.E.I. 1988, Cap. R-5.1,
  - (vii) the *Retail Sales Tax Act* R.S.P.E.I. 1988, Cap. R-13.03, and
  - (viii) the *Climate Leadership Act* R.S.P.E.I. 1988, Cap. C-9.1;
- (g) “**tax**” means a tax, levy or license fees imposed pursuant to a revenue Act, whether before or after the coming into force of this Act, and includes all penalties and interest that are, may be or may have been added to a tax or levy pursuant to this Act or a revenue Act, and all deposits made or required to be made on account of tax liability or levy liability under a revenue Act;
- (h) “**taxpayer**” means a person required by a revenue Act to pay a tax. *1990,c.54,s.1; 1991,c.9,s.1; 1992,c.59,s.1; 1993,c.29,s.4; 1997,c.20,s.3; 2005,c.49,s.6; 2007,c.14,s.1; 2007,c.19,s.34; 2010,c.31,s.3; 2012,c.17,s.2; 2012(2nd),c.22,s.25(3); 2015,c.28,s.3; 2016,c.6,s.130; 2018,c.41,s.62.*

## ADMINISTRATION

### 2. Administration

- (1) The Minister is charged with the administration of this Act and the revenue Acts.

#### Provincial Tax Commissioner

- (2) There shall be a Provincial Tax Commissioner and one or more inspectors for the purposes of this Act, the revenue Acts and any other enactment that confers functions upon the Commissioner or the inspectors.

#### Functions

- (3) The Commissioner shall act under the instructions of the Minister and have general supervision over all matters relating to the administration of this Act and the revenue Acts.

#### Execution of documents

- (4) The Commissioner may, in the course of his employment, recover taxes payable pursuant to this Act or a revenue Act, and execute all documents and affidavits necessary for the proper administration of this Act or a revenue Act. *1990, c.54, s.2; 2006, c.30, s.7.*

## LIABILITY AND ASSESSMENT

### 3. Liability of taxpayer

- (1) Subject to the regulations, a taxpayer is liable for a tax until it has been paid.

#### Assessment of tax

- (2) The Commissioner may from time to time and at such intervals as he may consider reasonable, determine and assess and reassess any tax payable under a revenue Act by any taxpayer and thereupon the tax so assessed or reassessed becomes due and payable by the taxpayer.

#### Estimate of tax due from taxpayer

- (3) Where a taxpayer fails to
- (a) pay a tax; or
  - (b) substantiate his payment by his records,

the Commissioner may estimate the unpaid tax and such estimated amount shall thereupon be deemed to be the amount of the tax due and payable by the taxpayer.

#### Notice of assessment

- (4) The Commissioner shall serve personally or send by registered mail to the taxpayer at his latest known address a notice of assessment setting out the amount assessed under subsection (2) or estimated under subsection (3), and in the case of a taxpayer having more than one address, one of which is within the province, the notice of assessment may be sent to the address in the province.

#### Incorrect assessment

- (5) Liability to assessment is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.



**Validity**

- (6) Any assessment made is, subject to being varied or vacated on reconsideration, objection or appeal, and subject to a reassessment, valid and binding notwithstanding any error, defect, or omission therein or any proceeding under this Act or a revenue Act relating thereto.

**Affidavit of service**

- (7) An affidavit or statutory declaration by a person serving or mailing a notice pursuant to subsection (4) stating that he has mailed or served the notice is proof that the amount stated in the notice is due and owing and the onus of proving otherwise rests on the taxpayer.

**Application**

- (8) This section applies notwithstanding any provision in a revenue Act. *1990, c.54, s.3; 1999, c.44, s.1; 2005, c.18, s.1.*

**COLLECTION****4. Tax deemed to be held in trust**

- (1) Every collector who collects any tax is deemed to hold the same in trust for the payment over of the same in the manner and at the time provided under this Act, and the amount, until paid, forms a lien and charge on his entire estate or on the entire assets of his estate in the hands of any trustee, and such lien or charge has priority over all other claims of any person.

**Tax deemed to be kept separate**

- (2) The amount of tax collected by a collector shall be deemed to be held separate from and form no part of the estate or assets of the collector, whether or not the amount of the tax has in fact been kept separate and apart from the estate or assets of the collector. *1990, c.54, s.4.*

**5. Remittance of tax**

- (1) All taxes collected by and deposits made with a collector under a revenue Act shall be remitted to the Minister at such time and such manner as may be prescribed by the regulations.

**Failure, notice to Commissioner**

- (2) In the event of failure on the part of a collector to collect a tax he shall immediately notify the Commissioner. *1990, c.54, s.5.*

**6. Commission**

A collector shall be paid such allowance or commission for his services in collecting and remitting a tax, and in receiving and remitting deposits to the Minister as the regulations may prescribe. *1990, c.54, s.6.*

**7. Records and returns**

- (1) Every collector shall make such returns to the Commissioner and shall keep such records in such form and containing such information as may be prescribed by the regulations.

**Records, wholesaler etc.**

- (2) Every person who, in the opinion of the Commissioner, is a wholesaler, manufacturer or importer shall keep such records and forward to the Commissioner such copies or extracts therefrom at such time and in such manner as the Commissioner may require. *1990,c.54,s.7.*

**8. Estimate of tax due from collector**

- (1) When a collector fails to make a return or remittance under this Act, or collect tax under a revenue Act, or if his returns are not substantiated by his records, the Commissioner may make an estimate of the amount of the tax collected by, or the tax that should have been collected by, and the deposits made with such collector which he has not remitted, and the estimated amount shall thereupon be deemed to be the amount of the tax collected by and the deposits made with the collector that he has not remitted.

**Notice of estimate**

- (2) The Commissioner shall serve personally or send by registered mail a notice in writing to the collector, his heirs, executors or assigns or to the custodian or trustee in bankruptcy of the assets of his estate, setting out the amount estimated pursuant to subsection (1) and requiring that the estimated amount be paid over to the Minister within seven days of the day on which the notice was served or sent by mail.

**Direction for immediate payment**

- (3) Repealed by *2005,c.18,s.2.*

**Affidavit of service**

- (4) An affidavit or statutory declaration by a person serving or mailing a notice pursuant to subsection (2) stating that he has mailed or served the notice is proof that the amount stated in the notice is due and owing and the onus of proving otherwise rests on the collector. *1990,c.54,s.8; 2005,c.18,s.2.*

## OBJECTION AND APPEAL

**9. Notice of objection**

- (1) Where a person considers that he is not liable to taxation under a revenue Act or disputes liability for the amount assessed against him, he may, within sixty days of the date of service or mailing of the notice of assessment serve on the Commissioner a notice of objection setting out the reasons for the objection and all relevant facts.

**Service**

- (2) A notice of objection is sufficiently served if delivered to the office of the Commissioner or sent by registered mail addressed to the Commissioner.

**Reconsideration**

- (3) The Commissioner shall, within sixty days of receipt of the notice of objection, reconsider the assessment or estimate and vacate, confirm or vary it, and he shall thereupon notify the objector of his decision by registered mail.

**Application to *Real Property Transfer Tax Act***

- (4) For greater certainty, this section applies in respect of the tax payable under the *Real Property Transfer Tax Act* and a reference in this section to





- (a) an “**amount assessed**” or an “**assessment or estimate**” shall be construed to include the tax payable under the *Real Property Transfer Tax Act*; and
- (b) the “**date of service or mailing of the notice of assessment**” shall be construed to include the date on which a deed to real property is tendered for registration at a registry office. *1990,c.54,s.9; 2005,c.18,s.3.*

## 10. Appeal to Commission

- (1) If the taxpayer or collector is dissatisfied with the decision of the Commissioner under subsection 9(3), he may, within thirty days from the date of mailing of the decision, appeal to the Island Regulatory and Appeals Commission hereafter referred to as the “Commission”.

### Notice of appeal to Commission

- (2) Any appeal shall be commenced by serving upon the Commission a notice of appeal in writing setting out the grounds of the appeal and stating briefly the facts relative thereto.

### Grounds of appeal

- (2.1) The grounds of an appeal set out in a notice of appeal shall be limited to the reasons raised by the taxpayer in a notice of objection filed under subsection 9(1).

### Service

- (3) A notice of appeal is sufficiently served if delivered to the office of the Commission or sent by registered mail addressed to the Commission.

### Parties

- (4) On the hearing of the appeal both the appellant and the Commissioner are entitled to appear and be heard and to submit further evidence.

### Designation of person to hear appeal

- (5) The Commission may, in writing, designate a person to act on its behalf and hear an appeal under this section and any reference in this section to the Commission includes a person so designated.

### Consideration of grounds only

- (5.1) No grounds of appeal shall be considered by the Commission other than the grounds of appeal set out in the notice of appeal.

### Decision

- (6) Upon any appeal, the Commission may affirm, vary or reverse the decision of the Commissioner and shall give the appellant written notice of its decision by registered mail. *1990,c.54,s.10; 1991,c.18,s.22; 1996,c.36,s.1; 1997,c.71,s.1; 2002,c.40,s.1.*

## 11. Appeal to Supreme Court

Repealed by *1994,c.50,s.6.*

## 12. Payment of tax not postponed by appeal

Neither the giving of a notice of objection or a notice of appeal by any person nor any delay in the hearing of an appeal shall in any way affect the due date, the interest or penalties, or any liability for payment provided under this Act or a revenue Act, in respect of any moneys due and payable to the Government that are the subject matter of the objection or appeal, but

in the event of the estimate of the Commissioner being set aside or reduced on appeal, the Minister shall refund the amount or excess amount which has been paid to the Government and any additional interest or penalty paid thereon. *1990,c.54,s.12.*

## RECOVERY OF TAX

### 13. Certificate of tax due

- (1) Where
  - (a) default
    - (i) has been made in the payment of any tax that has been assessed under this Act or a revenue Act, or
    - (ii) has been made by a collector in remitting any moneys collected or received, or that a collector is deemed to have collected or received on behalf of the Government;
  - (b) the Commissioner has sent a registered letter to the collector demanding payment of the amount due and payable; and
  - (c) 30 days has expired from the date that the registered letter was sent,  
the Commissioner may issue a certificate stating
  - (d) the name of the person by whom the tax is payable;
  - (e) the facts referred to in clause (a); and
  - (f) the amount due and payable on the date of the certificate, including interest, if any, and penalty, if any.

#### Exception

- (2) Notwithstanding anything to the contrary in subsection (1), the certificate referred to in that subsection may be issued forthwith where the Commissioner considers it necessary or advisable to do so.

#### Effect of filing certificate

- (3) Upon its production to and filing with the Registrar of the Supreme Court, the certificate shall be entered and recorded in the court, and when so entered and recorded it has the same force and effect, and all proceedings may be taken thereunder, as if it were a judgment obtained in the court by the Government against the person named in said certificate.

#### Costs and charges recoverable

- (4) All reasonable costs and charges attendant upon the production and registration of the certificate shall be recovered in like manner as if the amount thereof had been included in the said certificate. *1990,c.54,s.13; 2005,c.18,s.4.*

### 14. Tax is debt due

- (1) The amount of any tax that has been assessed against a taxpayer and is due and payable under this Act or a revenue Act, and the amount of any tax collected or deposit received or deemed to have been collected or received by a collector under this Act or a revenue Act, constitute a debt due to the Government and may be recovered by action in any court of competent jurisdiction.



**Costs**

- (2) The court may make an order as to the costs of such action in favour of or against the Government.

**Limitation**

- (3) The *Statute of Limitations* R.S.P.E.I. 1988, Cap. S-7 does not apply to the liability for the payment of a tax imposed pursuant to a revenue Act and does not constitute a restriction on the recovery of a tax imposed pursuant to a revenue Act. *1990, c.54, s.14.*

**15. Third party payment of tax**

When the Commissioner knows or suspects that a person is, or is about to become indebted or liable to make any payment to a person liable to make a payment or remittance under this Act or a revenue Act, the Commissioner may by registered letter or by a letter served upon the first-named person personally require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part, to the Commissioner on account of the liability under this Act, or a revenue Act, of the second-named person. *1990, c.54, s.15; 2007, c.14, s.2.*

**15.1 Priority**

Where the Commissioner has obtained a garnishee order under the *Garnishee Act* R.S.P.E.I. 1988, Cap. G-2, the garnishee order has, from the date it is issued, priority over

- (a) any other garnishee order, including such orders issued prior to the garnishee order in favour of the Commissioner; and
- (b) any other attachment or execution process initiated after the date of the garnishee order in favour of the Commissioner. *2002, c.40, s.2; 2007, c.14, s.3*

**15.2 Tax sale**

Where

- (a) unpaid taxes are owing by a person under this Act or a revenue Act; and
- (b) property assessed in the name of the person has been sold under the *Real Property Tax Act* R.S.P.E.I. Cap. R-5

the proceeds of that sale shall be disbursed for the unpaid taxes owing in accordance with the order of priorities established under subsection 16(7) of the *Real Property Tax Act*. *2002, c.40, s.3.*

**INTEREST****16. Interest on overdue tax**

- (1) Any amount due under this Act, or a revenue Act, shall bear interest at the prescribed rate, not exceeding two per cent per month, from the day on which that amount should have been remitted to the Minister.

**Interest on tax refunded**

- (2) Where, as a result of an objection or appeal, tax is refunded to any person, interest is payable thereon at the prescribed rate, not exceeding two per cent per month.

**Interest, uncollectable accounts**

- (3) Notwithstanding subsection (1), interest shall cease to accrue on amounts due as of the date the person liable to pay the tax files an assignment in bankruptcy under the *Bankruptcy and Insolvency Act* R.S.C. 1985, Chap. B-3. 1990,c.54,s.16, 1996,c.36,s.2.

**17. Audit**

- (1) The Commissioner may make or cause to be made an audit of the books of account, records, documents and papers of any collector.

*Idem*

- (2) Each collector shall make his books of account, records, documents and papers available to the Commissioner for the purpose of an audit under subsection (1). 1990,c.54,s.17.

## AUDIT AND INSPECTION

**18. Entry for audit, inspection**

- (1) The Commissioner, an inspector or any person authorized by the Minister may, without warrant, during normal business hours or at any other reasonable time, enter upon any premises or place where any business is carried on, operated, conducted or managed, or where any property is kept or any other thing is done in connection with which tax may be collected or payable, or where records are kept with respect to transactions that may give rise to tax that is payable or to the collection of tax
- (a) to audit, inspect or examine any account, record, paper, document, invoice, record keeping device, voucher, letter, electronic mail, goods or property or any other document or thing that is related or may relate in any way to tax that may be required to be collected, paid or remitted under a revenue Act;
  - (b) to determine whether tax has been or is being paid, collected or remitted by any person;
  - (c) to determine the amount of tax that may be payable, collected or remitted by any person;
  - (d) to ascertain the quantities of goods on hand or sold by a collector; or
  - (e) to make such inquiries and examinations and to conduct such searches of the premises as such person may consider necessary in relation to tax that may be required to be collected, paid or remitted under a revenue Act.

**Audit, examine, etc.**

- (1.1) The Commissioner, an inspector or any person authorized by the Minister may, on entering upon any premises or place under subsection (1), require the owner or manager of the property or business or any other person on the premises or place to give him or her all reasonable assistance with the audit or examination and to answer all proper questions relating to the audit or examination either orally or, if he or she so requests, on oath or by statutory declaration, and for that purpose to require the owner or manager to attend at the premises or place with him or her.

**Answer questions**

- (1.2) The collector or taxpayer and each of his or her officers, employees and agents shall answer all questions put to him or her relating to any of the matters concerning which authority to enter is given in this section and shall produce for inspection such records, documents and



other things as are required by such person entering the premises or place under subsection (1).

#### **Records not maintained in the province**

- (1.3) The holder of a registration certificate or permit who carries on business in the province, but does not keep or maintain in the province all books of account, records, record-keeping devices, papers or any other documents required for the purpose of audit, inspection, or examination, is liable for the expenses necessarily incurred by any officer appointed by the Minister for the purpose of auditing, inspecting, or examining the books of account, records and documents at the place where they are kept or maintained.

#### **Retention of records**

- (2) If during the course of an audit or inspection pursuant to subsection (1) it appears to the person conducting the audit or inspection that there has been a contravention of this Act or a revenue Act or the regulations, he may seize and take away any of the books of account, records and other documents and retain them until they are produced in any court proceeding and may make a copy thereof.

#### **Admissibility etc. of copies of records**

- (3) A copy of any book of account, records or document purporting to be certified by the Commissioner, an inspector or an authorized person 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 provide in the ordinary way.

#### **Financial statements**

- (4) The Commissioner may, at any time, require any collector or taxpayer to submit financial statements to the Commissioner. *1990,c.54,s.18; 1997,c.42,s.1; 2002,c.40,s.4; 2005,c.18,s.5.*

## **REFUNDS**

### **19. Refund of tax**

- (1) Where a person
- (a) has paid an amount as tax that is not payable as tax; or
  - (b) has paid an amount as tax that is in excess of the amount payable as tax,

the Minister shall repay to that person the amount wrongly paid or the amount of the excess if application for refund has been made in the manner prescribed by regulation within four years of the date the overpayment was made.

#### **Tax paid under mistake in law not recoverable**

- (2) Notwithstanding subsection (1), where an amount is paid as tax and it is subsequently determined that the amount was paid under a mistake in law, no action shall be maintainable against the Government for return of the amount so paid.

#### **Definition of mistake in law**

- (3) For the purposes of subsection (2), a mistake in law includes an incorrect interpretation or application of any of the provisions of this Act or a revenue Act, or the regulations.

**Action by collector**

- (4) A collector shall not be entitled to claim a refund under this Act or a revenue Act, or to commence an action claiming a refund in respect of any amount collected and remitted by the collector as an agent of the Minister.

**Refund after application deadline expires**

- (5) Notwithstanding subsection (1), where
- (a) an amount assessed against a person is reversed as a result of a decision respecting an objection or appeal of a notice of assessment issued to the person; and
  - (b) the person has paid tax during or subsequent to the applicable audit period which, as a result of the decision, was not payable,

the Minister shall repay to the person any such amount wrongly paid by the person since the beginning of the applicable audit period if an application for refund has been made in the manner prescribed by regulation within 60 days of the date of the final determination of the notice of assessment under objection or appeal.

**Where interest not payable**

- (6) Notwithstanding subsection 16(2), no interest shall be payable on any amount of tax refunded to a person pursuant to subsection (5) which was not part of the notice of assessment under objection or appeal. *1990, c.54, s.19; 2001, c.15, s.1; 2015, c.36, s.45.*

**CONFIDENTIAL INFORMATION**

**20. Confidentiality**

- (1) Except for purposes of the administration and enforcement of this Act or a revenue Act, and subject to subsection (3), all information, and all statements and documents, obtained under this Act or a revenue Act by the Minister, the Commissioner, an inspector, or any person employed by or authorized to act on behalf of any of them for any purposes of this Act, are confidential.

**Idem, employees**

- (2) Except for purposes of the administration and enforcement of this Act or a revenue Act, and subject to subsection (3), no person employed by the province shall communicate or allow to be communicated to any person any information obtained under this Act or a revenue Act, or allow any person to inspect or have access to any written statement furnished under this Act or a revenue Act.

**Reciprocal arrangements with other governments**

- (3) The Minister may
- (a) communicate or allow to be communicated information obtained under this Act or a revenue Act to; or
  - (b) allow inspection of or access to any written statement furnished under this Act or a revenue Act by,

any person employed by the Government of Canada or any province or territory of Canada, where the information and written statements obtained by such Government for the purpose of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Minister, and if the information and written statements will not be used for any purpose other



than administration or enforcement of a federal, provincial or territorial law that provides for the imposition or collection of a tax.

#### **Communication of information to other Departments**

- (4) The Minister may
- (a) communicate, or allow to be communicated, information obtained under this Act or a revenue Act; or
  - (b) allow inspection of or access to any written statement furnished under this Act or a revenue Act,
- to other departments of the government only where
- (c) the person to whom the information relates authorizes the Minister to do so; or
  - (d) it is not possible to identify the sales or tax remitted of any individual or business, and the information requested is not available from any other source.

#### **Disclosure of information**

- (4.1) Information collected under the *Gasoline Tax Act* may be disclosed as necessary to the Minister responsible for the *Climate Leadership Act* or any regulation under that Act for the purpose of administering or enforcing that Act or regulation.

#### **Collection and use of information**

- (4.2) The Minister responsible for the *Climate Leadership Act* or any regulation under that Act or the Minister responsible for the *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9, or any regulation under that Act may collect and use information as necessary for the purpose of formulating or analyzing the levy imposed under the *Climate Leadership Act*, fiscal measures, enforcement policy, climate change or renewable fuels standards.

#### **Oath of secrecy**

- (5) Any person employed by the province who, by virtue of his position, obtains information pursuant to this Act or a revenue Act or has access to information obtained pursuant to the provisions of this Act or a revenue Act may be required by the Minister to take an oath of secrecy. *1990, c.54, s.20; 2018, c.41, s.62.*

## **OFFENCES AND PENALTIES**

### **21. Offences, general**

- (1) Every person who
- (a) makes a false statement in any form or return provided for under this Act, a revenue Act or any regulation thereunder;
  - (b) interferes with, impedes or obstructs the Commissioner, an inspector or a person acting pursuant to this Act; or
  - (c) violates any provision of this Act, a revenue Act or any regulation thereunder for which no penalty is otherwise specifically provided,

is guilty of an offence and is liable on summary conviction to a fine of not less than \$250 and not more than \$5,000.

**Failure to file returns, collector**

- (2) Every collector who fails to file a return as and when required by this Act or a revenue Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 in respect of each unfiled return included in the conviction.

**Order to pay tax**

- (3) Where a prosecution for a violation of this Act or a revenue Act involves a failure to pay tax, the court upon conviction of the accused person may order him to pay the amount of the tax in addition to any other penalty.

**Worthless cheque, penalty**

- (4) Where a cheque issued by any person in payment of tax is returned as not negotiable by a savings institution, the Minister may levy upon that person such penalty as may be prescribed.

**Collection costs**

- (5) Where a person owes taxes pursuant to this Act or a revenue Act, the person shall pay to the Minister, on demand by the Commissioner, all costs and expenses incurred by the Minister in collecting the unpaid taxes, and the amount of such costs and expenses may be stated in a certificate issued by the Commissioner pursuant to section 13. *1990,c.54,s.21; 1994,c.58,s.6; 1994,c.50,s.6; 2002,c.40,s.5; 2012(2nd),c.22,s.25(4).*

**22. Failure to file or remit taxes, penalty imposed on collector**

Every collector who fails to make a return or to remit the tax collectable or payable as and when required by this Act or a revenue Act, shall pay the following penalty to the Minister upon demand by the Commissioner:

- (a) an amount equal to five per cent of the tax that was collectable and the tax that was payable by him for the period covered by the return, if the amount of such tax was less than \$5,000; or
- (b) \$250 if the amount of the tax collectable and of the tax that was payable by him for the period covered by the return, was \$5,000 or more,

and the amount of such penalties may be stated in a certificate issued by the Commissioner pursuant to section 13. *1990,c.54,s.22.*

**22.1 Officers, etc., of corporation**

Any officer, director or agent of a corporation, or any other person, who directed, authorized, assented to, acquiesced in or participated in the commission of any act by the corporation which is an offence under this Act, is guilty of an offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted of any offence under this Act. *1994,c.50,s.6.*

**22.2 Directors**

- (1) Where a corporation has failed to collect tax or has collected tax and failed to remit the tax or has failed to pay any interest or penalty relating thereto, the directors of the corporation at the time the corporation was required to collect or remit the taxes or to pay the interest or penalty relating thereto, are jointly and severally liable, together with the corporation to pay such amounts.





**Prudent director**

- (2) A director of corporation is not liable for a failure described under subsection (1) if the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances.

**Assessment**

- (3) The Commissioner may assess any person for any amount payable by the person under this section and, where the Commissioner sends a notice of assessment, the sections of this Act respecting assessments, objections and appeals apply with such modifications as the circumstances require.

**Time limit**

- (4) Any assessment under subsection (3) of any amount payable by a person who is a director of a corporation shall not be made more than two years after the person last ceased to be a director of the corporation. *1994, c.50, s.6; 2007, c.14, s.4.*

**23. Limitation period**

A prosecution for a violation of this Act, or a revenue Act or the regulations, shall be commenced within four years from the time of the violation. *1990, c.54, s.23.*

**24. Evidence**

- (1) In any prosecution or other proceeding under this Act, a certificate signed by the Minister or the Commissioner or purporting to be signed by the Minister or the Commissioner stating that
- (a) a specified amount is the amount of tax due and payable, or deemed to be due and payable, by a person under this Act or a revenue Act;
  - (b) a person failed to keep such records in such form, containing such information and in such place as is required under this Act and the regulations;
  - (c) a person failed to make a return in such form and manner and at such times as is required under this Act and the regulations;
  - (d) a specified amount is the amount of tax collected or deemed to have been collected, and to be remitted under this Act and the regulations;
  - (e) a person failed to remit to the Minister taxes collected or deemed to have been collected under this Act or a revenue Act at such time or times and in such manner as is required under this Act and the regulations;
  - (f) taxes were unremitted during a specified period of time;
  - (g) a person at a specified time refused to permit the Commissioner, an inspector, a peace officer, or a person designated by the Commissioner to conduct an investigation or an audit under this Act or obstructed or interfered with an investigation or audit conducted by the Commissioner, an inspector, a peace officer, or a person designated by the Commissioner under this Act,

may be adduced in evidence without proof of the appointment, signature or authority of the Minister or the Commissioner and, when so adduced, is, in the absence of evidence to the contrary, proof of the facts stated therein and, where the person named in the certificate has the same name as the accused, that the person named in the certificate is the accused.

**Idem**

- (2) Any report, certificate or other document signed by the Minister or by the Commissioner or purporting to be signed by the Minister or by the Commissioner may be adduced in evidence

in any court without proof of the appointment, signature or authority of the Minister or of the Commissioner and, when so adduced, is, in the absence of evidence to the contrary, proof of the facts stated therein. *1990, c.54, s.24.*

**25. Payment into Operating Fund**

The proceeds of a tax shall be paid into the Operating Fund. *1990, c.54, s.25; 1997, c.20, s.3.*

**26. Agreements re collection, etc.**

The Minister may, with the approval of the Lieutenant Governor in Council, enter into an agreement with any province or territory of Canada, the District of Columbia or any state or territory of the United States of America, or any state of the United States of Mexico in respect of the application, collection and division of a tax, and the Minister has the authority to fix or vary the rate of a tax to be applied or collected under such an agreement. *1990, c.54, s.26; 2005, c.18, s.6.*

**27. Collection Agreements**

- (1) The Minister, with the approval of the Lieutenant Governor in Council, may enter into an agreement with any person respecting the collection of a tax and such other matters as the Minister may determine whereby each such person is constituted an agent of the province for the collection of the tax.

**Sub-agents**

- (2) An agreement may provide that the person constituted an agent of the province for the collection of a tax may constitute sub-agents for the collection of the tax. *1990, c.54, s.27.*

**28. Regulations**

The Lieutenant Governor in Council may make regulations

- (a) respecting the forms and records to be used for the purpose of this Act or a revenue Act, or the regulations;
- (b) prescribing the method of collection and remittance of the tax, and of remittance of deposits, and any other conditions or requirements affecting the collection and remittance;
- (c) prescribing interest rates;
- (d) prescribing the allowances and conditions thereof to be paid to collectors for collecting the tax and remitting the tax and deposits to the Minister;
- (e) authorizing a designated officer or class of officers to exercise any powers or perform any duties of the Commissioner under this Act or a revenue Act;
- (f) respecting the release of returns and other tax-related information;
- (f.1) respecting the suspension, cancellation and reinstatement of a certificate or permit issued by the Minister under a revenue Act;
- (f.2) respecting the relief, in circumstances prescribed by regulation, of interest and penalties assessed against taxpayers;
- (g) defining any expression used in this Act;
- (h) prescribing the period for which an assessment may be made under this Act;



- (i) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary or advisable to carry out effectively the intent and purposes of this Act. *1990, c.54, s.28; 1995, c.33, s.4; 1999, c.44, s.2; 2002, c.22, s.1.*