



Budget Measures Act (Fall), 2004 Amendments to Motor Fuels, Tobacco and Land Taxes Statutes

This bulletin was revised June 2008 to incorporate formatting changes and changes in ministry name and contact information only.

- On December 16, 2004, the *Budget Measures Act (Fall), 2004* received Royal Assent (c. 31, S.O. 2004). This statute includes amendments to the *Electricity Act, 1998*, *Fuel Tax Act*, *Gasoline Tax Act*, *Land Transfer Tax Act* and the *Tobacco Tax Act* to implement measures announced in the 2004 Ontario Budget and other technical amendments to improve administrative effectiveness and enforcement, maintain the integrity and equity of the tax system and enhance legislative clarity.
- These amendments came into force on December 16, 2004.
- This bulletin provides general information. It is not exhaustive and should not be considered as a substitute for the *Fuel Tax Act*, *Gasoline Tax Act*, *Land Transfer Tax Act* and the *Tobacco Tax Act* and its regulations.

Fuel, Gasoline, Tobacco and Land Transfer Taxes

Waiver of 4-Year Limitation Period for Assessment	In order to codify the Minister of Finance's policy of accepting waivers from taxpayers in instances where the period for taxes owing is about to become statute-barred, amendments to the <i>Fuel Tax Act</i> , <i>Gasoline Tax Act</i> , <i>Land Transfer Tax Act</i> and <i>Tobacco Tax Act</i> permit the taxpayer to waive the four-year limit for issuing an assessment by filing a waiver with the Minister. Once filed, the waiver may be revoked by the taxpayer, but it continues to have effect for one year.
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Fuel, Gasoline and Tobacco Taxes

Publication of Registrants' Information	The amendments authorize the public disclosure by the Minister of Finance of the names and addresses of persons registered or designated under the <i>Fuel Tax Act</i> , <i>Gasoline Tax Act</i> and <i>Tobacco Tax Act</i> to ensure consumers and dealers are aware of persons authorized by the Minister to distribute products taxed under these Acts.
Documentation Required by Interjurisdictional Transporters	Amendments under the <i>Fuel Tax Act</i> , <i>Gasoline Tax Act</i> and <i>Tobacco Tax Act</i> permit use of true copies (such as photocopies) rather than notarial copies of exporter/importer registration certificates, interjurisdictional transporter registration certificates and transit permits. Also, amendments to the <i>Tobacco Tax Act</i> allow an interjurisdictional transporter to carry a substitute, as prescribed by the Minister, of the Uniform Manifest Form.

Fuel and Gasoline Taxes

Stop and Detain Enforcement Provisions Amendments to the *Fuel Tax Act* permit a person authorized by the Minister to stop and detain a commercial fuel (diesel) powered motor vehicle, take samples to determine if the vehicle contains coloured fuel or unauthorized fuel and inspect required documents.

Amendments to the *Fuel Tax Act* and *Gasoline Tax Act* permit a person authorized by the Minister of Finance to stop and detain a motor vehicle that the person reasonably believes to be a qualified motor vehicle (under the International Fuel Tax Agreement) in order to determine whether the vehicle operator is an interjurisdictional carrier.

These amendments are necessary to the routine enforcement of coloured fuel and interjurisdictional travel programs.

Gasoline Taxes

Automated Online Service System An amendment to the *Gasoline Tax Act* provides authority to file a regulation to accommodate the proposed automated online service system to expedite gasoline tax refunds to reserve gasoline retailers for tax-exempt sales to First Nations individuals. The existing refund provisions are extended to include refunds to retailers operating in an Indian settlement located on Crown land.

Land Transfer Taxes

Designated Collectors Amendments to the *Land Transfer Tax Act* specify the authority of the Minister of Finance to designate a collector of the tax payable when conveyances are registered electronically and specify the duties and obligations of a designated collector and land registrar. Consequential amendments made throughout the Act include the enactment of provisions governing record-keeping requirements, audits, offences and penalties relating to a designated collector.

Public Documents In order to streamline the first-time home buyer refund application process, amendments to the *Land Transfer Tax Act* provide that the information contained in a land transfer tax refund affidavit is publically available. This allows the application to be made electronically, at the time of registration.

Tobacco Taxes

Definition of "Acquire" To enhance legislative clarity, an amendment to the *Tobacco Tax Act* defines "acquire" as obtaining tobacco by any means, including through manufacturing.

Delivery of Unmarked Cigarettes Additional amendments prohibit a person from delivering or causing to be delivered unmarked cigarettes to a person in Ontario who is not entitled to purchase, possess, store or sell unmarked cigarettes, or where the unmarked cigarettes are intended to be sold to persons liable to pay tax. The amendments include penalties and offences.

Seizure of Unmarked Cigarettes Amendments also authorize the seizure of unmarked cigarettes if:

1. On an inspection, unmarked cigarettes are found in the possession of a wholesaler or retail dealer who is not authorized under the Act to be in

possession of the unmarked cigarettes;

2. During the detention of a motor vehicle suspected of containing evidence of a contravention of the Act, more than 200 unmarked cigarettes are found in control of a person not authorized under the Act to be in possession of the unmarked cigarettes; or
3. Certain unauthorized persons have more than 200 unmarked cigarettes in their control.

The amendment also permits the use of investigative techniques to examine cigarettes contained in a vehicle.

Retention Period of Documents Seized Amendments limit the retention of documents seized pursuant to an inspection of a detained vehicle to three months from the date of the seizure, unless a court proceeding has been instituted or a new order is made.

Limitation on Quantity of Cigars and Other Tobacco a Person May Possess Under the new amendments, no person may possess more than 50 cigars or more than one kilogram of other tobacco (for example: pipe tobacco and roll your own) for which the person cannot demonstrate that tax, required to be paid under the Act, has been paid. Exceptions are made for those authorized under the Act or its Regulations to possess more than these proposed limits and for instances where there is proof that Ontario tobacco tax has been paid. Consequential penalties, offences, and seizure provisions are also included in the amendments.

A similar provision was enacted in June 2004 with respect to limiting the number of tax-free cigarettes a person may have in his/her possession to 200.

Note: Ontario Tax Bulletin [TT 7-2004](#) sets out in detail the enhanced regulatory and enforcement provisions under the *Tobacco Tax Act*.

Electricity Act, 1998 Amendments

Payments in Lieu of Additional Municipal and School Taxes The amendments exempt owners of wind turbine towers, for 2005 and subsequent years, from the requirement under subsection 92(1) of the *Electricity Act, 1998* to make payments in lieu of additional municipal and school taxes in respect of all generating stations other than hydro-electric generating stations.

Gross Revenue Charge Subsection 92.1(2) of the *Electricity Act, 1998* requires specific owners of hydro-electric generating stations to pay the property tax portion of the gross revenue charge to the Ontario Electricity Financial Corporation rather than to Her Majesty in right of Ontario. This subsection is revised to extend this treatment to stations acquired or developed by Ontario Power Generation Inc., Hydro One Inc. or a municipal electricity utility after March 31, 1999.

Highway Traffic Act - International Registration Plan

Retention of Records The amendments require permit holders under the Plan to retain prescribed records for five years. Previously, they were required to retain those records for three years.

Interest Simple interest is payable to the Minister on unpaid fees and penalties with respect to registration years that end on or after December 9, 2002.

As well, interest begins to accrue on the first day following the registration year for which the

unpaid amount is owed.

Simple interest is payable on any unpaid amounts owing for the multijurisdictional vehicle tax under the *Retail Sales Tax Act*.

Ministry of Revenue Act

Minister May
Withhold Tax
Refunds

A tax refund under any Act administered by the Minister may be withheld if a person fails to deliver a return under any Act administered by the Minister.

Business Corporations Act

Notice of
Dissolution

An order dissolving a corporation that is in default of complying with the *Fuel Tax Act*, the *Gasoline Tax Act*, the *Land Transfer Tax Act* or the *Tobacco Tax Act* may be issued unless the corporation remedies its default within 90 days after the notice is given.

This amendment will come into force on a day to be named by proclamation of the Lieutenant Governor.

Additional Information

If this bulletin does not completely address your particular situation, refer to the Act and related regulations, or contact the:

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This bulletin and various other English and French tax materials published by the Ministry of Revenue may be obtained online at ontario.ca/revenue.

The *Fuel Tax Act*, *Gasoline Tax Act*, *Land Transfer Tax Act* and the *Tobacco Tax Act* and Ontario's other public statutes and regulations may be obtained online at www.e-laws.gov.on.ca.

Ce bulletin est disponible en français.