

## Penalties

### About this Guide

This *Guide* explains the penalties, fines and other sanctions that may be imposed for failure to comply with the *Retail Sales Tax Act* (Act) and Regulations. Please note that this *Guide* replaces the previous version dated January 2001. Revisions to previous content have been identified by a bar ( | ).

## Ministry Imposed Penalties

### Non-collection of Retail Sales Tax (RST)

The penalty for failing to collect Retail Sales Tax (RST) as required is equal to the RST that should have been collected. If the failure to collect RST is due to neglect, carelessness, wilful default or fraud, an additional penalty of 25 per cent (minimum \$25) of the RST that should have been collected may also be assessed.

### Unfiled or Late-filed Returns

The penalty for failing to file a return or filing a return late is 10 per cent of the Tax Collectable on Sales (Line 2 of the return) *plus* 5 per cent of the Tax Payable for Own Use (Line 3 of the return), with **no maximum**. "Own use" means any taxable goods or services consumed by the business.

**Returns must be filed by the due date, even if there are no sales or RST to report.**

### Non-remittance of RST

The penalty for failing to remit the total RST owing with a return is 10 per cent of the Tax Collectable on Sales not remitted (Line 2 of the return) *plus* 5 per cent of the Tax Payable for Own Use not remitted (Line 3 of the return), with **no maximum**. If the underpayment of the RST is due to neglect, carelessness, wilful default or fraud, an additional penalty of 25 per cent (minimum \$100) of the unpaid amount may be assessed, even if the total RST was correctly shown on the return.

### Tax Payable on Own Use by Manufacturing Contractors

Manufacturing contractors must file returns and remit RST on any goods manufactured or bought by them for own use in real property contracts. The penalty for failing to file a return or remit any RST owing is 5 per cent of the RST payable for own use (Line 3 of the return), with **no maximum**.

#### Note:

A manufacturing contractor is a real property contractor who manufactures taxable goods and installs them as part of real property, provided the cost to produce the goods in a fiscal year is more than \$50,000. If the cost to manufacture these goods is less than \$50,000 (per fiscal year), then the contractor is not considered a manufacturing contractor and must pay 8 per cent RST on the purchase of all materials and manufacturing equipment. (See **RST Guide 401 - Manufacturing Contractors**).

### Directors of Corporations

The ministry may issue an assessment against a corporation for failing to collect RST or failing to remit RST, including any interest and penalties associated with the assessment. When the assessment is levied, the directors of the corporation are jointly and severally liable for payment, even if the corporation has filed a proposal under the *Bankruptcy and Insolvency Act* (Canada).

<b>Dissolution of Corporations</b>	<p>Effective May 1, 2006, when a corporation is in default of complying with the RST Act, notice may be sent by registered mail or by publication in <i>The Ontario Gazette</i> that an order dissolving the corporation will be issued unless the corporation remedies its default within 90 days after the notice is given.</p> <p>Corporations may also be dissolved if they are in default of complying with the <i>Corporations Tax Act</i>, the <i>Fuel Tax Act</i>, the <i>Gasoline Tax Act</i>, the <i>Land Transfer Tax Act</i>, the <i>Employer Health Tax Act</i> or the <i>Tobacco Tax Act</i>.</p>
<b>Non-Resident Contractors</b>	<p>A person, dealing with a non-resident contractor who fails to comply with the Act, may be assessed any Retail Sales Tax (RST) owing, or amounts established to the satisfaction of the minister to be the RST owing, by the non-resident contractor. (See <b>RST Guide 804 - Non-Resident Contractors</b>).</p>
<b>Purchasers</b>	<p>Purchasers assessed for RST payable may also be assessed a penalty if the non-payment of the RST payable is due to neglect, carelessness, wilful default or fraud. The penalty is equal to the greater of \$100 or 25 per cent of the RST assessed. This penalty is in addition to the RST owing.</p>
<b>Non-Negotiable Cheques</b>	<p>The penalty for making a payment with a non-negotiable cheque is 10 per cent of the Tax Collectable on Sales (Line 2 of the return) <i>plus</i> 5 per cent of the Tax Payable for Own Use (Line 3 of the return), with <b>no maximum</b>. Also, a fee of \$35 will be charged for every cheque that is returned by a financial institution as non-negotiable.</p>
<b>Understatement of Fair Value</b>	<p>The penalty for understating the fair value of taxable goods in any written statement or document is equal to the amount of RST understated. The minimum penalty is \$50 and the maximum is \$2,500. This penalty is in addition to the RST owing.</p> <p><b>Example:</b> A purchaser buys \$1,000 worth of taxable goods for their own use. The purchaser only declares a fair value of \$300 for the goods and pays RST of \$24. The difference between the fair value (\$1,000) and the declared value (\$300) is \$700. The purchaser may be assessed the RST owing on the goods plus RST on the understated value of \$700, resulting in a penalty of \$56 for understating the fair value of the goods, plus \$56 for the RST owing, for a total assessment of \$112.</p>

## Court Imposed Fines

In addition to the civil penalties described above, the ministry may lay charges for making false statements in returns, for evading or attempting to evade payment of RST, or for failing to carry out any duty required by the Act and Regulations. Court proceedings for violations are commenced under the *Provincial Offences Act* (POA) through an Offence Certificate (Part I of the POA) or a Summons (Part III of the POA). Upon conviction, substantial fines or imprisonment may be imposed as described below:

<b>Failure to Obtain a Vendor Permit</b>	<p>A Vendor Permit must be obtained by a person who sells taxable goods, services, insurance or charges admission over \$4 to a place of amusement. A Vendor Permit must also be obtained by a person who qualifies as a manufacturing contractor. The fine for failing to obtain a Vendor Permit is \$100 or more for each day that a person operates without a permit.</p> <p><b>For more details about whether or not a Vendor Permit is required, please contact the nearest Ontario Ministry of Revenue Tax Office.</b></p>
<b>Failure to Collect RST</b>	<p>The fine for failing to collect RST as required is equal to the RST that should have been collected, <i>plus</i> a minimum of \$50 up to a maximum of \$2,000.</p>
<b>Failure to File Returns</b>	<p>The fine for failing to file a return by the due date is \$50 or more for each day the return is late.</p> <p><b>Returns must be filed by the due date, even if there are no sales or RST to report.</b></p>

## Court Imposed Fines (*continued*)

### Failure to Keep Records

The fine for failing to keep records of purchases and sales is \$50 for each day those records are not kept.

### Failure to Produce Records

The fine for failing to produce records or provide information when required by the ministry is \$50 for each day the required information is not produced.

***Your records must be made available for audit in Ontario.***

### Failure to Remit RST Collected \*

The fine for failing to remit any Retail Sales Tax (RST) collected is:

- a minimum of \$100 or 25 per cent of the RST not remitted, whichever is more; *up to*
- a maximum of double the amount of the RST not remitted, if the maximum is more than \$100.

### Making False Statements, Evading Payment of RST \*

The fine for making false or deceptive statements in a return, record, book of account, certificate, statement or answer, or evading or attempting to evade payment of RST, or deliberately failing to comply with any provision of the Act is:

- a minimum of \$1,000 or 50 per cent of any unreported RST, whichever is more; *up to*
- a maximum of double the amount of any unreported RST, if the maximum is more than 1,000.

### False Refunds or Rebates \*

The fine for obtaining or attempting to obtain a refund or rebate of RST by deceit, falsehood or fraud is:

- a minimum of \$500; *up to*
- a maximum of double the amount of the RST refund or rebate applied for.

***\* The RST Act provides for jail terms of up to two years for serious offences. A jail term can be imposed in addition to, or instead of, a fine.***

### Suspension of Lottery Privileges - Retailers

Effective June 1, 1998, retailers convicted of offences under the Act may have their right to sell Ontario Lottery Corporation products suspended. The duration of the suspensions will vary, depending on the offence, as shown in the following table:

Offence	1st Conviction	2nd Conviction	3rd Conviction
Failing to remit RST	1 month	6 months	Permanent revocation of privileges
Making false statements in RST returns, destroying or falsifying records, or evading payment of RST	3 months	1 year	Permanent revocation of privileges

### Charges Against Directors of Corporations

If a corporation is guilty of an offence under the Act, any officer, director or agent of the corporation, or any other person, such as a spouse of an officer or director, an employee, an accountant or a solicitor of the corporation, who directed, authorized, assented to, acquiesced in, or participated in the commission of an offence by the corporation, may also be charged. If convicted, they are subject to the punishment provided for the corporation's offence, whether or not the corporation has been prosecuted or convicted.

### General Penalty

The fine for contravening any section of the Act and Regulations, where no other penalty is provided for the offence, is a minimum of \$50 up to a maximum of \$5,000 upon conviction.

## Interest Charges

Interest will be charged on any penalties and unpaid Retail Sales Tax from the first day of the default to the date the account is settled. All interest charges are compounded daily.

## Legislative References

*Retail Sales Tax Act*, Subsections 5(7), 20(3)(4)(6), 13(2), 15.1(3)(4)(5)(6), 19(1), 20(7), 21(1), 32(1)(2)(4)(4.1)(5), 41(1)(2), 43(1), 44(1), and 44(2)(3)(4).

## For More Information

The information contained in this publication is only a guideline. For more information, please contact the Ontario Ministry of Revenue at 1 866 ONT-TAXS (1 866 668-8297) or visit our website at [ontario.ca/revenue](http://ontario.ca/revenue).

---

*Ce guide est disponible en français sous le nom «Pénalités n° 205F».*  
*Vous pouvez obtenir un exemplaire en appelant le 1-866 ONT-TAXS (1 866 668-8297).*

© Queen's Printer for Ontario, 2006



ISBN 1-4249-1983-5 (Print)  
ISBN 1-4249-1984-3 (HTML)  
ISBN 1-4249-1985-1 (PDF)