

***Budget Measures Act, 2006 (No. 2)***  
**Overview of Amendments to the *Fuel Tax Act, Gasoline Tax Act,***  
***Land Transfer Tax Act, Tobacco Tax Act and Provincial Land Tax Act***

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

On December 20, 2006, the *Budget Measures Act, 2006 (No. 2)*, received Royal Assent (c. 33, S.O. 2006). This statute includes amendments to the *Fuel Tax Act, Gasoline Tax Act, Land Transfer Tax Act, Tobacco Tax Act* and the replacement of the *Provincial Land Tax Act* with the *Provincial Land Tax Act, 2006*.

These amendments came into force on December 20, 2006, unless noted otherwise.

The information in this bulletin does not replace the law found in the *Fuel Tax Act, Gasoline Tax Act, Land Transfer Tax Act, Tobacco Tax Act* and the *Provincial Land Tax Act* and related regulations.

### ***Fuel Tax Act***

Amendments to the *Fuel Tax Act* provide new penalty provisions for exporters and importers who are not registered. In the case of an unregistered importer, the penalty is equal to 110 per cent of the amount of tax that would be payable by a taxable consumer on the imported fuel. In the case of an unregistered exporter, the penalty is equal to 100 per cent of the amount of the tax that would be payable by a taxable consumer under the *Fuel Tax Act (Act)* on the exported fuel.

An amendment to the *Fuel Tax Act* removes the authority in the Act to seize books and records without a search warrant.

An amendment to the *Fuel Tax Act* provides a new offence provision for using fraudulent means to obtain a refund under the Act to which the recipient is not entitled.

Amendments to the *Fuel Tax Act* provide new penalty provisions for dealers who possess fuel that is a mixture of coloured fuel and any other fuel.

An amendment to the Act clarifies that the minister may extend the time to commence an appeal under the Act if an application for the extension is made before the expiry of the time limit for instituting the appeal (90 days).

### ***Gasoline Tax Act***

An amendment to the definition of "gasoline" clarifies that fuel-grade ethanol is subject to the same rules under the *Gasoline Tax Act (Act)* as other fuels that are taxed as gasoline. This amendment shall be deemed to have come into force on May 18, 2006.

As of January 1, 2007, coinciding with the implementation of a Renewable Fuels Standard in Ontario, which will require an average of five per cent ethanol content in gasoline, ethanol will be subject to gasoline tax in Ontario at the rate of 14.7 cents per litre.

Amendments to the *Gasoline Tax Act* provide new penalty provisions for exporters and importers who are not registered. In the case of an unregistered importer, the penalty is equal to 110 per cent of the amount of tax that would be payable by a taxable consumer in respect on the imported gasoline. In the case of an unregistered exporter, the penalty is equal to 100 per cent of the amount of the tax that would be payable by a taxable consumer in respect on the exported gasoline.

An amendment to the *Gasoline Tax Act* removes the authority in the Act to seize books and records without a search warrant.

An amendment to the *Gasoline Tax Act* provides a new offence provision for using fraudulent means to obtain a refund under the Act to which the recipient is not entitled.

An amendment to the Act clarifies that the minister may extend the time to commence an appeal under the Act if an application for the extension is made before the expiry of the time limit for instituting the appeal (90 days).

### ***Land Transfer Tax Act***

The *Land Transfer Tax Act* (Act) provides for the deferral and cancellation of tax for unregistered transfers of land between affiliated corporations, subject to certain conditions, including a condition that no conveyance is subsequently registered on title. New amendments to the Act ensure that if a subsequent conveyance is registered on title, the tax payable on registration is based on the value of the consideration of the previous disposition of the beneficial interest and not on the nominal value of the bare legal title.

Currently, the determination for the purposes of section 3 of the Act of whether corporations are affiliated is based on provisions of the *Securities Act* that are adopted by statutory cross-reference. An amendment incorporates the relevant provisions into the Act for clarity.

An amendment to the Act clarifies that the minister may extend the time to commence an appeal under the Act if an application for the extension is made before the expiry of the time limit for instituting the appeal (90 days).

### ***Tobacco Tax Act***

An amendment to the *Tobacco Tax Act* provides that a person who delivers tobacco for resale without a wholesaler's permit be subject to the same penalty and offence provisions as a person who sells tobacco for resale without a wholesaler's permit.

In addition, amendments permit increased fines and penalties and add authority for the court to impose a term of imprisonment for activities related to the unauthorized distribution of tobacco products.

Amendments to the *Tobacco Tax Act* provide new penalty provisions for importers who are not registered. In the case of an unregistered importer, the proposed new penalty is equal to three times the amount of the tax that would be payable by a taxable consumer in respect on the imported tobacco. In the case of an unregistered exporter, the penalty remains equal to the amount of the tax that would be payable by a taxable consumer in respect of the exported tobacco.

Currently, packages of taxable cigarettes carry a yellow tear tape indicating that tax is payable on the purchase of the cigarettes. An amendment provides that manufacturers of the yellow tear tape are subject to regulations with respect to how they account for and safeguard the tear tape in their possession. This amendment is deemed to have come into force on July 1, 2004.

An amendment to the *Tobacco Tax Act* (Act) removes the authority to seize books and records without a search warrant.

Currently, the Act provides for the forfeiture of tobacco seized in connection with certain offences. An amendment to provide for forfeiture of tobacco seized in connection with the offence of delivering, storing, transporting or possessing tobacco in bulk in Ontario that was acquired from or that is owned by a person who does not hold the necessary registration certificates or permits.

An amendment to the Act clarifies that the minister may extend the time to commence an appeal under the Act if an application for the extension is made before the expiry of the time limit for instituting the appeal (90 days).

### ***Provincial Land Tax Act***

Currently, the system of property taxation that applies to land located in territory without municipal organization is set out in the *Provincial Land Tax Act* (Act). That Act is replaced by the *Provincial Land Tax Act, 2006* and by related amendments to the *Assessment Act*.

Under the current system, the *Provincial Land Tax Act* governs the assessment of land in territory without municipal organization. It also governs the levying of property taxes on that land. Under the new system, the *Provincial Land Tax Act, 2006* will govern the levying of property taxes in non-municipal territory but it will not govern the assessment of that land. The *Assessment Act* will govern the assessment of that land.

The effective date is January 1, 2009.

### **For More Information**

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