



CHAPTER 14

An Act to impose a tax on retail sales within the
Province

[Assented to, the 22nd of June, 1940]

HIS MAJESTY, with the advice and consent of the
Legislative Council and of the Legislative As-
sembly of Quebec, enacts as follows:

SHORT TITLE

1. This act may be cited as "Retail Sales Tax Act". Short title.

INTERPRETATION

2. In this act, unless the context indicates a different meaning: Interpreta-
tion:

1. "Purchaser" means any person who acquires "Purchaser";
from a vendor moveable property at a retail sale in
the Province;

2. "Revenue Branch" means the Revenue Branch "Revenue
Branch";
of the Province of Quebec;

3. "Moveable property" means all property which "Moveable
property";
is not considered immovable by the laws of this Prov-
ince, and includes gas and electricity, and also tele-
phone service;

4. "Comptroller" means the Comptroller of Prov- "Comp-
troller";
incial Revenue;

5. "Minister" means the Provincial Treasurer; "Minister";

6. "Person" includes an individual, a firm, a com- "Person";
pany, a corporation, an association of persons, an estate,

a sequestrator, a trustee in bankruptcy, a liquidator, a fiduciary trustee, an administrator or an agent;

"Sale price";
"purchase price".

7. "Sale price" or "purchase price" mean a price in money, and also the value of services rendered, the actual value of the thing exchanged, and other consideration or prestations accepted by the seller as price of the thing covered by the contract of sale. They shall include the charges for the installation of the thing sold, for interest, for finance, for service, for customs, for excise and for transportation, even when such are not shown separately on the invoice or in the vendor's books;

"Province";

8. "Province" means the Province of Quebec;

"Sale";

9. "Sale" includes a sale pure and simple, a conditional sale, a sale by instalments, an exchange, a lease or any other contract whereby, at a price or other consideration, a person delivers or binds himself to deliver, to another, moveable property;

"Retail sale";

10. "Retail sale" means a sale to a purchaser or user for purposes of consumption or use, and not for resale;

"User";

11. "User" means any person who, within the Province, utilizes any moveable property for his own use or for that of other persons at his expense;

"Vendor".

12. "Vendor" means any person, who sells moveable property at a retail sale in the Province, for purposes of consumption or use, and not for resale.

REGISTRATION

Registration
certificate.

3. 1. No vendor shall sell any moveable property in the Province, at a retail sale, unless a registration certificate has been, upon his application, granted to him under the authority of this act, and unless such certificate be in force at the time of the sale.

Application
therefor.

2. The application for the registration certificate shall be filed with the Comptroller.

Granting
and keeping
thereof.

3. Such registration certificate shall be granted by the Comptroller or by such other person as he may appoint, and shall be kept at the chief place of business of the vendor in the Province, and shall not be transferable.

Refusal to
issue certi-
ficate in cer-
tain case.

4. The Minister may refuse to issue such registration certificate to any person who has been found guilty of any infringement of this act. He may also cancel or

suspend the certificate issued, in the case of a person who has been found guilty of any infringement of this act. Cancellation, etc., of certificate.

5. The following information must be given when a certificate is requested: Information for obtaining certificate.

a. by one or more persons doing business under a firm name,— the name and address of such person or persons;

b. by a partnership,— the name and address of each partner;

c. by a corporation, club, association or syndicate,— the name and address of the president, if he resides in the Province; if not, the name and address of its manager or representative residing in the Province and the address of its place of business in the Province.

TAXATION

4. In order to provide for the exigencies of the public service of the Province, every purchaser shall pay to His Majesty in the rights of the Province, at the time of making a purchase at a retail sale in the Province, a tax equal to 2% of the purchase price of any moveable property. Sales tax.

5. Every person ordinarily residing or carrying on business in the Province, who, himself or through the intermediary of any other person, brings or causes to be brought in the Province any moveable property, or receives delivery of any moveable property in the Province, for consumption or use in the Province by himself, shall immediately report the matter to the Comptroller and forward or produce to him the invoice, if any, in respect of such property, and any other information required by him, and shall furthermore pay to His Majesty in the rights of the Province, on the purchase price, the same tax in respect of the consumption or use of such property as would have been payable if the property had been purchased at a retail sale in the Province at the same price. Purchases made outside of Province. Report and tax payable.

6. Every purchaser or user, who, after the coming into force of this act, takes delivery of any moveable property acquired by him for consumption or use in the Province, shall pay to His Majesty in the rights of the Province, at the time of taking the delivery, a tax of Tax payable upon delivery.

two per centum (2%) of the retail price of the said property.

How tax
calculated.

7. The tax imposed by this act shall be calculated separately on every purchase, and any fraction of a cent shall be counted as one cent.

Tax collected
at time of sale
on whole
amount and
transmission
thereof.

8. The tax imposed by section 4, whether the price be stipulated payable in cash, on terms, on instalments or otherwise, shall be collected by the vendor at the time of the sale on the whole amount of the contract price and be remitted by him to the Minister, in such manner as the Lieutenant-Governor in Council may prescribe.

Collection
upon de-
livery and
transmission.

9. The tax imposed by section 6 shall be collected by the vendor at the time of delivery and be transmitted by him to the Minister in such manner as the Lieutenant-Governor in Council may prescribe.

Vendor acts
as agent for
Minister.

10. The vendor shall act, in such cases, as the agent for the Minister, and he shall account for and remit to him, through the Revenue Branch, the amounts so collected, on or before the 15th day of the months of September, November, January, March, May and July of every year for the two calendar months immediately preceding the remittance.

Allowance to
vendor for
collection of
tax.

11. The Minister may make an allowance to the vendors for their services in collecting and forwarding the tax to the Province, which allowance shall be determined by the Lieutenant-Governor in Council.

EXEMPTIONS

Exemptions.

12. This act shall not apply to the following:

- a. Bonds and shares of a corporation;
- b. All other intangible property, all securities, all moneys;
- c. All transactions made through the Canadian Commodity Exchange Inc.;
- d. All debts, rights of action, incorporeal rights, annuities, insurance premiums;
- e. Beer and tobacco;
- f. Gasoline and kerosene (coal oil);

g. Foodstuffs, not including candies and confectioneries;

h. Provisions or merchandise sold by a farmer, horticulturist, nurseryman, aviculturist or apiculturist and produced through the pursuit of his undertaking;

i. Tools, farm implements and parts, farm machinery and tractors, acquired by a *bona fide* farmer to be used for the needs of his farm; nor animal-drawn vehicles, grain and mill feeds, seeds, fertilizers, horses, harness for horses, livestock and drain tiles for agricultural purposes, also purchased by a *bona fide* farmer;

j. Boats, fishing nets and any other fishing apparatus purchased by a *bona fide* fisherman to be used in his trade;

k. Natural water, distilled water and ozonized water;

l. Medicaments on doctors' prescriptions;

m. Fares on tramways, autobuses, boats, railroads or other transportation systems by land, water or air and toll fares;

n. Price of admission to places of amusement, as defined by the Amusement Tax Act (Revised Statutes, 1925, chapter 125), as amended;

o. Sales to the Federal Government or to the Provincial Government;

p. Sales made to a *fabrique* or the trustees of a parish or to a cemetery society or company or to a hospital, for the purposes of their work, and sales made by them;

q. Sales by judicial authority;

r. Sales made by any person carrying on business in this Province, when the merchandise thus sold is shipped outside of the Province, for consumption or use outside of the Province;

s. Meals;

t. School books, Bibles and Prayer Books;

u. Telegraph messages;

v. Sales for a price of ten cents or less, save where soft drinks or aerated waters are concerned.

13. Notwithstanding any law or by-law to the contrary, the exemptions provided for in the preceding section shall, from and after the coming into force of this act, be the sole exemptions applicable to sales taxes imposed by any municipal corporation, substituting in paragraph *r* of the said section for the words: Exemptions applicable to municipal sales taxes.

“outside of the Province” the words: “outside of the territory subject to the tax”.

ACCOUNTS, REPORTS AND INSPECTION

Accounts kept, etc. by vendor.

14. 1. The vendor, as agent for the Minister, shall keep and render accounts of the taxes collected, in the form and manner established by the Minister.

Affidavit, etc.

2. The account rendered shall be verified by the affidavit or the statutory declaration of the vendor.

Manufacturers, etc. to keep record of purchases and sales, etc.

3. The Minister may require manufacturers, importers or vendors to keep in a prescribed form record of all purchases and sales of moveable property by them, and to forward to him copies of such records or extracts therefrom, at such time and in such manner as he deems fit.

Inspection of books by revenue officer.

4. Any revenue officer duly authorized to that effect may enter the premises of a manufacturer, importer or vendor during reasonable hours, examine his books and documents, verify the quantities of moveable property sold or delivered, establish the correctness of the reports made, and, in the event of a report not being correct or not having been made, establish the quantity of moveable property sold and the amount of the tax to be collected or paid and report accordingly to the Comptroller.

Returns made by vendor.

15. Every vendor shall make such returns to the Revenue Branch, in such form, at such time and with such information as the Minister may prescribe.

No communication of information.

16. No person employed in the service of His Majesty shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under the provisions of this act, nor allow any such person to examine or have access to any statement or return furnished under the provisions of this act.

OFFENCES AND PENALTIES

Offence.

17. Every person who:

a. sells or delivers moveable property in the Province, without a registration certificate still in force, or otherwise contravenes the provisions of section 3 of this act or of the regulations made in virtue of this act, or

b. being an agent of the Minister, refuses or neglects to collect, account for or remit the amount of the tax in accordance with the provisions of this act or of the regulations made thereunder, or,

c. refuses to permit a revenue officer to make the examination and verification contemplated under section 14 of this act, commits an offence against this act, and shall be liable, ^{Penalty.} upon summary proceeding, in addition to the payment of the costs and to the obligation to remit the tax, to a fine of not less than ten dollars and not more than one thousand dollars, in the cases provided for in the paragraph b of this section for each sale so made, and, in the cases provided for in paragraphs a or c of this section, for each day of such offence, and, in all cases, in default of the payment of the fine and costs and in default of the payment of the aforesaid tax, to imprisonment for three months.

18. Every person who infringes the provisions of sections 4, 5 or 6 of this act shall be guilty of an offence ^{Offence and penalty.} and shall be liable, upon summary proceeding, in addition to the payment of the tax and costs, to a fine of not less than ten dollars and not more than one thousand dollars, and, in default of payment of the fine, tax and costs, to imprisonment for one month.

19. Any person violating any of the provisions of ^{Idem.} section 16 of this act shall be liable to a fine of not less than twenty-five dollars and of not more than two hundred dollars, and costs, and, in default of payment of the fine and costs, to an imprisonment not exceeding three months.

PROSECUTIONS

20. 1. Suits brought under this act shall be taken ^{Suits taken in name of Attorney-General.} in the name of the Attorney-General of the Province of Quebec representing His Majesty in the rights of the Province, before a justice of the peace, a judge of the sessions, a police magistrate or a district magistrate, and shall be governed by Part I of the Quebec Summary Convictions Act (Revised Statutes, 1925, chapter 165) save that, whenever the payment of the tax is claimed, such suit shall be brought before the Superior Court or any other court of competent jurisdiction in civil matters.

Prima facie
proof.

2. It shall not be necessary to produce the original of a book, document, order or register in the possession of the Revenue Branch, but a copy or extract certified by the Comptroller, or by the Director of the Service, shall be *prima facie* sufficient proof of the contents of the original.

Comptroller
not obliged
to swear to
the com-
plaint, etc.

3. It shall not be necessary for the Comptroller to sign or swear to the complaint, to appear or to make proof of his appointment and of his exercising his office; for all purposes he shall be represented by the attorney appearing on behalf of the Attorney-General.

Injunction
against a
person
selling
without
registration
certificate.

21. In addition to the recourses specially provided under this act for the violations of its provisions, His Majesty in the rights of the Province may apply to a judge of the Superior Court for the granting of an injunction against any person who sells moveable property without having obtained a registration certificate still in force, ordering him to cease selling moveable property until a registration certificate is issued or reissued, and all costs are paid.

Security not
given by
Atty.-Gen.

The Attorney-General representing His Majesty in the rights of the Province shall be dispensed from the obligation of giving security.

Provisions
applicable.

In all other respects, the provisions of the Code of Civil Procedure respecting injunctions shall apply to the injunction proceedings mentioned in this section.

Execution of
judgment
against cor-
poration, etc.

22. Whenever a judgment has been rendered under this act against a partnership, corporation, club, association or syndicate, such judgment may, in default of payment of the fine and costs, be executed:

a. in the case of a partnership, against each member of the partnership;

b. in the case of a corporation, club, association or syndicate, against its president if the latter be in the Province, and, if not, against its manager or representative in the Province.

GENERAL PROVISIONS

Arrange-
ments with
vendors au-
thorized.

23. In order to facilitate the collection and remittance of the tax imposed by this act or to prevent the double payment of such tax on the same moveable property, the Minister may effect such arrangements as he

may deem expedient to make with a vendor and such arrangements shall be subject to this act.

24. The fees and taxes imposed by and collected under this act, and all fines recovered thereunder, shall Fees, etc., form part of consolidated revenue fund. be form part of the consolidated revenue fund of the Province.

25. Every tax due under this act shall bear interest at the rate of five per centum per annum, from the date such tax should have been remitted to the Revenue Branch. Rate of interest on tax.

26. Every sum due to the Crown under this act shall constitute a privileged debt ranking immediately after law costs. Privileged debt.

27. For the purpose of carrying into effect the provisions of this act according to their true intent or of supplying any deficiency therein, the Lieutenant-Governor in Council may make such regulations, not inconsistent with this act, as are considered necessary. Making of regulations.

Such regulations shall have the same force and effect as if enacted by this act and shall be published in the *Quebec Official Gazette*. Effect and publication of regulations.

28. The Lieutenant-Governor in Council may authorize the Minister to effect agreements with any municipal corporation for the purpose of collecting on behalf of such municipality any sales tax imposed by it. Such agreements may stipulate that the Minister shall have the right to allow the auditor of the municipal corporation to examine all reports or statements furnished under the provisions of this act. Agreements with municipalities. Auditor of municipality may examine reports, etc.

The Lieutenant-Governor in Council may make such regulations as may be deemed necessary to carry out such agreements; to authorize the Minister to exercise the rights of the municipal corporation in such connection, and to enact that the two taxes shall be totalled before the fraction of a cent be counted as one cent. Regulations for carrying out of agreements, etc.

The sales tax collected on behalf of a municipal corporation shall be remitted by the Minister to the said corporation after deducting the costs of collection agreed upon. Tax remitted to municipalities, less costs.

Costs. **29.** The expenses occasioned by the carrying out of this act, during the fiscal year of the Province 1940-41, shall be paid out of the consolidated revenue fund.

**Carrying out
of act.** **30.** The Provincial Treasurer shall have charge of the carrying out of this act.

**Coming into
force.** **31.** This act shall come into force on the first day of July, 1940.
