



## CHAPTER 15

### Tobacco Tax Act

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

**HIS MAJESTY**, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

#### DIVISION I

##### INTERPRETATION

**1.** This act may be cited as “Tobacco Tax Act”. Title.

**2.** In this act, unless the context indicates a different meaning: Interpretation.

**1.** “Comptroller” means the Comptroller of Provincial Revenue; “Comptroller”;

**2.** “Consumer” means any person who purchases from a vendor tobacco at a retail sale in the Province; “Consumer”;

**3.** “Minister” means the Provincial Treasurer; “Minister”;

**4.** “Package” means package, box, tin or other container in which tobacco is contained or sold at a retail sale; “Package”;

**5.** “Person” includes an individual, a firm, a company, a corporation, an association of persons, an estate, a sequestrator, a trustee in bankruptcy, a liquidator, a fiduciary trustee, an administrator or an agent; it shall also include the owner or operator of a vending machine for the automatic sale of tobacco; “Person”;

**6.** “Province” means the Province of Quebec; “Province”;

**7.** “Purchaser” means any person who purchases from a vendor tobacco at a retail sale in the Province; “Purchaser”;

- "Raw leaf tobacco"; 8. "Raw leaf tobacco" means the unmanufactured tobacco, or the leaves and stems of the plant;
- "Retail sale"; 9. "Retail sale" means a sale to a consumer for purposes of consumption, and not for resale;
- "Retail vendor"; 10. "Retail vendor" means any person who, within the Province, sells tobacco to a consumer;
- "Revenue Branch"; 11. "Revenue Branch" means the Revenue Branch of the Province of Quebec;
- "Sale"; 12. "Sale" means the ordinary contract of sale and includes exchanges, transfers and barter; it shall also include gifts by vendors;
- "Sale price"; 13. "Sale price" or "purchase price" mean a price  
"Purchase price"; in money, also the value of services rendered or other consideration or prestations accepted by the seller as price or value of the thing given;
- "Tobacco"; 14. "Tobacco" means tobacco in any form in which tobacco is consumed and includes snuff, but does not include cigars sold at a retail price of five cents or less each and raw leaf tobacco;
- "Vendor"; 15. "Vendor" includes both wholesale vendor and retail vendor;
- "Wholesale vendor". 16. "Wholesale vendor" means any person who, within the Province, sells tobacco for the purpose of resale, whether manufactured by himself or any other person.

## DIVISION II

## LICENSES

- License. 3. No person may sell tobacco in the Province unless a license therefor has been, upon his application, issued to him under authority of this act, and unless such license be in force at the time of sale.
- In force until revoked. Such license shall remain in force until revoked for cause by the Minister.
- Application for license. 4. The application for the license shall be filed with the Comptroller.
- Granting and keeping of license. 5. Such license shall be granted by the Minister or by such officer as he may appoint, upon payment by the vendor of a fee of one dollar to His Majesty in the rights of the Province, and shall be kept in the place where the licensee sells tobacco, or at his chief place of business in the Province.

**6.** The Minister may cancel or suspend the license of any person who has been found guilty of an infringement of this act; he may also refuse to issue a license to any person who has been found guilty of an infringement of this act. Cancellation, suspension or refusal of license.

**7.** The following information must be given when a license is requested: Information for obtaining license.

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 resident manager or representative, and the address of its place of business in the Province;

### DIVISION III

#### TAXATION

**8.** In order to provide for the exigencies of the public service of the Province, every consumer shall pay to His Majesty in the rights of the Province, at the time of making a purchase of tobacco in this Province, for consumption by himself or by any other person, a tax in respect of the consumption of such tobacco at the rate of ten per centum of the retail price. Tobacco tax.

**9.** 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 into the Province any tobacco, or receives delivery of any such tobacco in the Province, for consumption by himself, shall immediately report the matter to the Comptroller and forward or produce to him the invoice, if any, and any other information he may require, and shall then pay to His Majesty in the rights of the Province the same tax in respect of the consumption of such tobacco as would have been payable if same had been purchased at a retail sale in the Province at the same price. Bringing, etc., tobacco in Province. Report and tax.

**10.** The tax imposed by this act shall be calculated separately on every package, and any fraction of a cent How tax calculated.

**Cigars.** shall be computed as one cent. However, in the case of a retail sale of cigars, the tax shall be computed on the retail price of each cigar.

**Tax collected by vendor.** **11.** The tax payable by the purchaser at the time of his purchase shall be collected and accounted for by the vendor, and be remitted by him to the Minister through the Revenue Branch, in such manner as the Lieutenant-Governor in Council may prescribe.

**Vendor acting as agent of Minister.** The vendor shall act, in such a case, as the agent for the Minister and shall account for and remit to him the amounts so collected, within fifteen days immediately following the calendar month during which any sale has taken place.

**Allowance for collection.** **12.** The Minister may make an allowance to the vendors for their services in collecting and forwarding the tax to the Revenue Branch, which allowance shall be determined by the Lieutenant-Governor in Council.

**No sales tax on tobacco by municipalities.** **13.** Notwithstanding any act or by-law to the contrary, no sales tax on the purchase at retail of tobacco by a consumer may be levied by any municipal corporation, and any such sales tax presently imposed by any such municipal corporation on the purchase at retail of tobacco is hereby abolished from the date of the coming into force of this act.

**Idem.** This section shall also apply to cigars sold at a retail price of five cents or less each and to raw leaf tobacco.

#### DIVISION IV

##### 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 tax collected, in the form and manner established by the Minister.

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

**Records to be kept of all purchases, etc.** **3.** The Minister may require wholesale or retail vendors to keep in a prescribed form record of all purchases, sales and deliveries of tobacco made 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.

4. Any revenue officer authorized to that effect may <sup>Examining</sup> enter the premises of a wholesale or retail vendor <sup>of books, etc.</sup> during reasonable hours, examine his books and documents, verify the quantities of tobacco 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 tobacco sold or delivered.

**15.** Every vendor must make such returns to <sup>Returns.</sup> the Revenue Branch, in such form, at such times and with such information as the Minister may prescribe.

**16.** No person employed in the service of His <sup>No communi-</sup> Majesty shall communicate or allow to be communicat- <sup>cation of</sup> ed to any person not legally entitled thereto any inform- <sup>information.</sup> ation obtained under the provisions of this act, or allow any such person to inspect or have access to any statement or return furnished under the provisions of this act.

#### DIVISION V

##### OFFENCES AND PENALTIES

**17. 1.** Every person who:

<sup>Offences.</sup>

a. sells or delivers tobacco in the Province, without a license in force, or otherwise contravenes the provisions of Division II 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 or neglects to permit a revenue officer to make the examination and verification set forth in section 14 of this act,

commits an offence under this act, and shall be liable, <sup>Penalties.</sup> upon summary proceeding, in addition to the payment of the costs and to the remittance of 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 of the remittance of the aforesaid tax, to imprisonment for three months.

Offence by  
consumer.

**18.** Every consumer who buys tobacco in the Province without paying the tax imposed under Division III of this act shall be guilty of an offence under this act 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 two hundred dollars, and, in default of payment of the fine, tax and costs, to imprisonment for a period not exceeding one month.

Id., by ven-  
dor as to  
returns.

**19.** Any person contravening section 15 of this act or any of the regulations made in virtue of this act, shall be liable, upon summary proceeding: for a first offence, to a fine of not less than ten dollars and not more than one thousand dollars, and costs, and, on failure to pay such fine and costs, to an imprisonment of not less than one month and not more than three months; and for each subsequent offence, in addition to the costs, to an imprisonment of three months.

Id., by person  
communicat-  
ing inform-  
ation.

**20.** Any person violating any of the provisions of section 16 shall be liable, upon summary proceeding, 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.

## DIVISION VI

### PROSECUTIONS

Suits in name  
of Attorney-  
General.

Governing  
provisions.

*Prima facie*  
proof.

**21. 1.** Suits brought under this act shall be taken 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 only of the tax is claimed, such suit shall be brought before the Superior Court or any other court of competent jurisdiction in civil matters.

**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.

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.

Comptroller not obliged to swear to the complaint, etc.

**22.** In addition to the recourses specially provided under this act for the violation 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 tobacco without having a license issued under the authority of this act, and still in force, ordering him to cease selling tobacco until a license be issued or reissued, and all costs be paid.

Injunction against a person selling tobacco without license.

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

Security by Atty.-Gen. not necessary.

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

Provisions applicable.

**23.** 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:

Execution of judgment against corporation, etc.

*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.

## DIVISION VII

### GENERAL PROVISIONS

**24.** In order to facilitate the collection and remittance of the tax imposed by this act or to prevent the double payment of such taxes on the same tobacco, 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.

Arrangements with vendors authorized.

Fees, etc.,  
form part of  
consolidated  
revenue fund.

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

Rate of  
interest on  
tax.

**26.** Any 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.

Privileged  
debt.

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

Making reg-  
ulations.

**28.** 1. 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.

Use of  
stamps.

2. The Lieutenant-Governor in Council may also direct that the payment of the tax imposed by this act shall be evidenced by the affixing by the vendor of stamps upon the tobacco sold for consumption or upon the package. The stamps shall be issued according to the laws of the Province and particularly in accordance with the provisions of the Stamp Act (Revised Statutes, 1925, chapter 24), and with any order-in-council respecting the same.

Effect and  
publication of  
regulations,  
etc.

3. Such regulations or orders-in-council shall have the same force and effect as if enacted by this act and shall be published in the Quebec Official Gazette.

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.