PLEASE NOTE

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This document is ***not*** the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the ***Table of Public Acts*.**

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CHAPTER R-14

REVENUE TAX ACT

1. In this Act, Definitions

(a) "Commissioner" means the Provincial Tax Commissioner provided for by the *Revenue Administration Act* R.S.P.E.I. 1988, Cap. R- 13.2; Commissioner

(a.1) "consideration" has the same meaning as in Part IX of the *Excise Tax Act* (Canada); consideration

(b) "consumer" means a person who consumer

(i) utilizes or intends to utilize within the province goods for his or her own consumption, or for the consumption of another person at his or her expense,

(ii) utilizes or intends to utilize within the province goods on behalf of or as agent for a principal who desired or desires to so utilize the goods for consumption by the principal or by any other person at the expense of the principal, or

(iii) brings into, causes to be brought into, or takes delivery within, the province of goods for his or her own consumption, or for the consumption of another person at his or her expense,

and includes a promotional distributor to the extent that the fair value of the goods provided by way of promotional distribution exceeds the amount of the payment specifically made therefor by the person to whom the goods are provided;

(c) "consumption" includes consumption

(i) use,

(ii) the incorporation into any structure, building or fixture, of goods including those manufactured by the consumer or further processed or otherwise improved by him,

(iii) the provision of goods by way of promotional distribution, and

(iv) bringing goods into, causing goods to be brought into, or taking delivery of goods within, the province;

(c.1) "eating establishment" means a restaurant, dining room, dairy bar, ice cream parlour or cafeteria including any such establishment providing take-out or counter service, lounge, coffee shop, pizzeria, lunch counter, mobile canteen, coffee wagon, canteen, vending machine when dispensing food, snack bar, a stand or facility from which prepared food products are dispensed at an exhibition, fair, sporting event, theatre, cinema, grocery store, convenience store or eating establishment

other store where food products are sold or on a water vessel, and includes any premises or location to which a caterer supplies prepared food products;

fair value

(d) "fair value" includes

(i) the price for which the goods were purchased including

(A) the value in terms of Canadian money or services rendered and things exchanged, and other considerations accepted by the vendor or person from whom the property passed, as the price or on account of the price of the goods purchased,

(B) the cost of or charges for customs duties, federal excise taxes and federal sales taxes, whether or not such are shown separately in the vendor's books or on any invoice,

(C) the cost of installation where the contract under which the goods were acquired provides for the acquisition of goods and their installation for one consideration, and

(D) in respect of goods purchased outside the province and brought into the province for consumption, the cost of transportation incurred prior to the consumption of the goods in the province,

(ii) the cost, including the cost of material, transportation, labour, overhead, engineering, administration, royalties and federal sales tax, of goods manufactured, processed or otherwise improved by a vendor or other person, for his own use or consumption, except that in the case of a mobile home, manufactured home or modular home sold for the first time at a retail sale after July 10, 1979, "fair value" means the taxable value of that mobile home, manufactured home or modular home,

(iii) in relation to private transfers of motor vehicles, all terrain vehicles, snowmobiles or watercraft, excluding transfers referred to in subclause (iv), the purchase price or the value as set out in such trade valuation books as may be prescribed, whichever is greater, but a taxpayer may, in accordance with the regulations, substitute a written appraisal of the value of the motor vehicle, all terrain vehicle, snowmobile or watercraft from such person as may be authorized in the regulations for the prescribed trade valuation book value, and

(iv) in relation to certain private transfers of motor vehicles, all terrain vehicles, snowmobiles or watercraft between a person and members of his family as prescribed by the regulations, the purchase price;

goods

(e) "goods" includes

(i) chattels personal, other than things in action,

(ii) admission charges, telecommunication services, laundry and dry cleaning services, repair and installation labour, accommodation charges and golf fees, each as defined in the regulations,

(iii) computer software as defined in the regulations; and

(iv) legal services, accounting services, consulting services, engineering services and architectural services, each as defined in the regulations;

(f) "inspector" means an inspector provided for by the *Revenue Administration Act*; inspector

(f.1) "manufactured home" means a structure that manufactured home

(i) is designed and intended for residential purposes, and

(ii) is fully assembled by the manufacturer away from the site on which it is to be permanently located;

(g) "Minister" means the Minister of Finance; Minister

(h) "mobile home" means a vehicular portable structure intended for residential purposes that mobile home

(a) is defined to be a mobile home, a multiple section mobile home or a swing out and expandable room section mobile home for the purposes of the Z240 series of standards prescribed by the Canadian Standards Association, and

(b) complies with the requirements for a mobile home, multiple section mobile home or swing out and expandable room section mobile home contained in that series of standards, and bears the seal of the Canadian Standards Association attesting to such compliance;

(i) "modular home" means a house that is intended for residential purposes and that is constructed by assembling manufactured modular units each of which comprises at least one room or living area and has been manufactured to comply with the standards set out in the National Building Code of Canada; modular home

(j) "motor vehicle" means a passenger car, automobile, motorcycle, truck, bus, truck tractor, tractor trailer or similar mobile equipment designed and used for the transportation of passengers or goods on a public highway, and a motor grader or snow plough, but does not include a farm tractor, combine, or other similar self-propelled agricultural implement; motor vehicle

(k) "person" in addition to the meaning ascribed to it by the *Interpretation Act* R.S.P.E.I. 1988, Cap. I-8, includes a municipal corporation, school board or any other board, commission, committee or authority established for public or local purposes; person

prepared food products

(k.1) "prepared food products" means

(i) food or beverages heated for consumption,

(ii) non-carbonated, non-alcoholic beverages, when purchased with other non-liquid, prepared food products,

(iii) carbonated beverages,

(iv) salads,

(v) sandwiches and similar products,

(vi) platters of cheese, cold cuts, seafood, baked goods, fruit or vegetables,

(vii) baked goods or products, including pastries, muffins, tarts, cookies, doughnuts, croissants, bagels and servings of pies or cakes, when purchased in quantities of five or fewer,

for consumption on or off the premises where sold;

private transfer

(k.2) "private transfer" means,

(i) in relation to a motor vehicle, all terrain vehicle or snowmobile, a sale in which neither the seller nor the purchaser has a valid dealer's trade license issued pursuant to the *Highway Traffic Act* R.S.P.E.I. 1988, Cap.H-5, and

(ii) in relation to a watercraft, a sale in which

(A) neither the seller nor the purchaser has a valid vendor registration certificate issued under this Act to lease or sell watercraft, or

(B) the seller has a valid vendor registration certificate issued under this Act to sell watercraft and is not resident in the province;

promotional distribution

(l) "promotional distribution" means the provision by any person to others of goods that are, in the opinion of the Minister, provided for one or more of the following purposes:

(i) to describe, promote or encourage the purchase, consumption or use of goods,

(ii) to furnish or distribute to any person a catalogue, directory, listing or compilation of persons, places, prices, services, commodities or places of business in respect of the purchase, consumption or use of goods,

(iii) for a purpose, function or use prescribed by the regulations to be a promotional distribution;

promotional distributor

(m) "promotional distributor" means any person who provides, by way of promotional distribution to another person, goods the fair value of which

(i) exceeds the amount of the payment specifically made therefor by the person to whom the goods are provided, or

(ii) is not specifically charged to and required to be paid by the person to whom the goods are provided;

(n) "purchaser" means a consumer who acquires goods at a retail sale within the province; purchaser

(o) "regulations" means regulations made under this Act; regulations

(p) "retail sale" means a sale to a consumer for the purpose of consumption and not for resale; retail sale

(q) "sale" includes, sale

(i) exchange, barter, sale on credit, conditional sale, sale where the price is payable by instalments, transfer of title, conditional or otherwise, and any other contract whereby for a consideration a person delivers goods to another,

(ii) a transfer of possession, conditional or otherwise, or a lease or a rental, determined by the Commissioner to be in lieu of a transfer of title, exchange or barter, and

(iii) the provision of goods by way of promotional distribution;

(q.1) "specified purchaser" means a person who, specified purchaser

(i) is a consumer within the meaning of subsection 123(1) of the *Excise Tax Act* (Canada) in respect to the purchase of tangible personal property, a taxable service or an admission,

(ii) is not registered under Part IX of the *Excise Tax Act* (Canada) and is not a consumer within the meaning of subsection 123(1) of that Act, or

(iii) satisfies such conditions as the Minister may prescribe;

(q.2) "substantially" means 90 per cent or more; substantially

(r) "tax" means a tax or license fee imposed pursuant to this Act, and includes all penalties and interest that are, may be or may have been added to a tax pursuant to this Act or the *Revenue Administration Act* R.S.P.E.I. 1988, Cap. R-13.2, and all deposits made or required to be made on account of tax liability under this Act; tax

(s) "taxable value" means taxable value

(i) in the case of a mobile home, one-half of the sale price thereof that is charged to the person acquiring the mobile home, if such price is determined by including therein all charges for delivery of the mobile home in accordance with the terms of such sale, by excluding therefrom the retail sale price of any furniture or appliance that is not permanently attached to, and part of, the interior structure of the mobile home, and by excluding therefrom any charges for the installation or connection of the mobile home on the site to which it is delivered, or

(ii) in the case of a manufactured home or modular home, an amount equal to one-half of the sale price of such manufactured home or modular home on the sale thereof by its manufacturer, or

where the manufacturer is the consumer of such manufactured home or modular home, one-half of the sale price normally charged by the manufacturer on the sale thereof,

but such taxable value applies only with respect to the first retail sale of the mobile home, manufactured home or modular home in the province after July 10, 1979;

vendor

(t) "vendor" means a person who in the ordinary course of business within the province sells goods to a purchaser, either on his own behalf or on behalf of another. R.S.P.E.I. 1974, Cap. R-14, s.1; 1975,c.24,s.1; 1978,c.20,s.1; 1979,c.16,s.1; 1980,c.47,s.1; 1983,c.1,s.6; 1984,c.35,s.1; 1985,c.37,s.1; 1986,c.5,s.2; 1987,c.63,s.1; 1988,c.59,s.1; 1990,c.56,s.1; 1990,c.54,s.29; 1991,c.35,s.1; 1991,c.18,s.22; 1993,c.19,s.1; 2001,c.49,s.1; 2002,c.41,s.1; 2003,c.19,s.1; 2004,c.36,s.1; 2005,c.50,s.1; 2007,c.15,s.1; 2010,c.31,s.3; 2012,c.17,s.2; 2012(2nd),c.22,s.26(2); 2015,c.28,s.3.

Act does not bind the Crown

2. This Act does not bind the Crown in right of the province, as defined by the regulations. R.S.P.E.I. 1974, Cap. R-14, s.2; 1986,c.18,s.2; 2005,c.19,s.1.

Enforcement of Act

3. Repealed by 1990,c.54,s.19.

Consumer tax, amount of

4. (1) Subject to section 4.2, every consumer of goods consumed in the province shall, at the time of taking delivery, pay to the Minister for the raising of revenue for provincial purposes, a tax at the rate of ten per cent of the fair value of the goods.

Exception

(2) Unless otherwise provided for in this Act, no tax is payable under subsection (1) by a consumer on taking delivery of goods after March 31, 2013. R.S.P.E.I. 1974, Cap. R-14, s.4; 1978,c.20,s.3; 1980,c.47,s.2; 1981,c.33,s.1; 1997,c.57,s.1; 2012(2nd),c.22,s.26(3).

Tax on private motor vehicle sale

4.1 (1) In addition to the tax payable under section 4, every purchaser shall pay to the Minister a tax at the rate of 2.5% of the fair value of an automobile or truck with an unloaded weight of less than 3859 kg where the purchase is not a taxable supply made by a registrant pursuant to Part IX of the *Excise Tax Act* (Canada) R.S.C.

Exception

(2) Unless otherwise provided for in this Act, no tax is payable under subsection (1) by the purchaser on purchases which occur after March 31, 2013. 1988, Chap. E-15. 1997,c.43,s.1; 2009,c.18,s.1; 2012(2nd),c.22,s.26(4).

federal sales tax

4.2 For the purposes of section 4, "federal sales tax" as used in the definition of "fair value" in clause 1(d) of this Act includes only that

component of the federal sales tax that is the goods and services tax as established pursuant to Part IX of the *Excise Tax Act* (Canada) R.S.C. 1988, Chap. E-15. 1998,c.101,s.1.

4.3 In this section, sections 4.4 to 4.11 and subsection 7(4.1), Definitions

(a) "acquisition date" means, acquisition date

(i) in the case of an interjurisdictional vehicle that is purchased, the date on which the vehicle is purchased, or

(ii) in the case of an interjurisdictional vehicle that is leased, the date on which the lessee first becomes entitled to have access to the vehicle pursuant to the lease agreement;

(b) "acquisition year" means, acquisition year

(i) in the case of an interjurisdictional vehicle that is purchased, the year in which the vehicle is purchased, or

(ii) in the case of an interjurisdictional vehicle that is leased, the year in which the lessee first becomes entitled to have access to the vehicle pursuant to the lease agreement;

(c) "active interjurisdictional fleet" means a fleet in which at least one of the vehicles was licensed as an interjurisdictional vehicle for at least 90 days during the calculation year preceding the start of the fleet year; active interjurisdictional fleet

(d) "calculation year" means the period commencing on July 1 in one year and ending on June 30 in the following year; calculation year

(e) "distance ratio" for an interjurisdictional vehicle for a vehicle licence period means the ratio calculated pursuant to section 4.4; distance ratio

(f) "fleet" means one or more interjurisdictional vehicles that are designated as a fleet by the person licensing the vehicles; fleet

(g) "fleet year" means the period fleet year

(i) commencing on the first day in the year that interjurisdictional vehicles in a fleet are licensed as a fleet, and

(ii) ending on the earlier of

(A) the day before the anniversary of the date mentioned in subclause (i),

(B) in the fleet's first fleet year, the date which is,

(I) in the case where the person licensing the interjurisdictional vehicles as a fleet is an individual, the date on which the individual's next birthday falls, and

(II) in any other case, the date selected by the person licensing the interjurisdictional vehicles as a fleet, and

(C) the date that interjurisdictional vehicles in the fleet cease to be a fleet;

interjurisdictional commercial purpose

(h) "interjurisdictional commercial purpose" means engaging in interprovincial or international trade by way of the commercial carriage of passengers or goods;

interjurisdictional vehicle

(i) "interjurisdictional vehicle" means a vehicle that is eligible to be licensed pursuant to a reciprocal agreement for an interjurisdictional commercial purpose;

prorate tax

(j) "prorate tax" means the tax imposed pursuant to subsection 4.5(1), and includes all penalties and interest that are, may be or may have been added to such tax pursuant to this Act or the *Revenue Administration Act*;

reciprocal agreement

(k) "reciprocal agreement" means an agreement that is prescribed by regulation and that is between Prince Edward Island and one or more other provinces or territories of Canada or states of the United States of America in which the parties agree to prorate taxes on interjurisdictional vehicles and to collect and remit the other parties' portions of the taxes;

reciprocal jurisdiction

(l) "reciprocal jurisdiction" means a province or territory of Canada or a state of the United States of America that has entered into a reciprocal agreement with Prince Edward Island;

vehicle

(m) "vehicle" does not include a trailer;

vehicle licence period

(n) "vehicle licence period" means the period commencing on the date that an interjurisdictional vehicle is licensed and ending on the earlier of

(i) the expiry date of the licence, and

(ii) the date the licence is cancelled, surrendered or terminated;

vehicle taxable value

(o) "vehicle taxable value" means,

(i) in the case of an interjurisdictional vehicle that is purchased, the greater of

(A) the purchase price of the vehicle in the vehicle's acquisition year, and

(B) the fair value (excluding that component of the federal sales tax that is the goods and services tax as established pursuant to Part IX of the *Excise Tax Act* (Canada) R.S.C. 1988, Chap. E-15) of the vehicle in the vehicle's acquisition year, or

(ii) in the case of an interjurisdictional vehicle that is leased, the greater of

(A) the purchase price of the vehicle in the vehicle's acquisition year as described in the lease agreement, and

(B) the fair value (excluding that component of the federal sales tax that is the goods and services tax as established

pursuant to Part IX of the *Excise Tax Act* (Canada) R.S.C. 1988, Chap. E-15) of the vehicle in the vehicle's acquisition year,

and includes any capital expenditure made in respect of the vehicle after the vehicle's acquisition date. 2001,c.50,s.1.

Distance ratio calculation

4.4 The distance ratio for an interjurisdictional vehicle for a vehicle licence period is,

(a) in the case of an interjurisdictional vehicle that is part of an active interjurisdictional fleet, the ratio of

(i) the actual distance travelled in Prince Edward Island by the fleet in the period that

(A) commences on the later of

(I) the date in the calculation year preceding the vehicle licence period that it began operating as an interjurisdictional fleet, and

(II) the first day of the calculation year preceding the vehicle licence period, and

(B) ends on the last day of the calculation year preceding the vehicle licence period, and

(ii) the total actual distance travelled by that fleet during the period mentioned in subclause (i); or

(b) in any other case, the ratio of

(i) a reasonable estimate of the distance that the fleet will travel in Prince Edward Island during the fleet year that includes the vehicle licence period, and

(ii) a reasonable estimate of the total distance that the fleet will travel in the fleet year that includes the vehicle licence period. 2001,c.50,s.1.

Tax on interjurisdictional vehicle

4.5 (1) Every person who licenses an interjurisdictional vehicle for use in Prince Edward Island and in one or more reciprocal jurisdictions shall pay a tax to the Minister with respect to each vehicle licence period for the interjurisdictional vehicle.

Manner of paying prorate tax

(2) A person who is required to pay the prorate tax shall pay the prorate tax in the manner prescribed by regulation.

Prorate tax, when payable

(3) The prorate tax payable by a person for an interjurisdictional vehicle for a vehicle licence period is payable,

(a) if the interjurisdictional vehicle is licensed in Prince Edward Island, at the time the vehicle is licensed for the vehicle licence period pursuant to the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5; or

(b) if the interjurisdictional vehicle is not licensed in Prince Edward Island,

(i) at the time the interjurisdictional vehicle is licensed for the vehicle licence period in the reciprocal jurisdiction, or
(ii) if not paid at the time mentioned in subclause (i), at the time the interjurisdictional vehicle first enters Prince Edward Island during the interjurisdictional vehicle's vehicle licence period.

Joint and several liability

(4) If the prorate tax is payable by a person for an interjurisdictional vehicle for a vehicle licence period, any other person who had management of, or the right to determine the utilization of, the interjurisdictional vehicle while it was in Prince Edward Island during the vehicle licence period is jointly and severally liable with the first mentioned person to pay the prorate tax for the vehicle licence period.

Exception

(5) Prorate tax is not payable by a person who, in the province, licenses an interjurisdictional vehicle for an interjurisdictional commercial purpose for a vehicle license period that begins on or after April 1, 2013. 2001,c.50,s.1; 2005,c.19,s.2; 2012(2nd),c.22,s.26(5).

Formula for calculation of prorate tax

4.6 (1) The amount of prorate tax payable by a person for an interjurisdictional vehicle for a vehicle licence period is the amount calculated in accordance with the formula

TV x R x DR x T

where

TV is the vehicle taxable value of the interjurisdictional vehicle;

R is the rate of prorate tax applicable to the interjurisdictional vehicle pursuant to subsection (2);

DR is the distance ratio for the interjurisdictional vehicle for the vehicle licence period; and

T is the number of whole or partial calendar months in the interjurisdictional vehicle's vehicle licence period at the time that the interjurisdictional vehicle is licensed divided by 12.

Prorate tax rate

(2) For the purpose of R in the formula in subsection (1), the rate of prorate tax applicable to an interjurisdictional vehicle for a vehicle licence period shall, in each calendar year in which the prorate tax is payable in respect of the vehicle, be the rate shown opposite that calendar year in the column for the applicable type of vehicle in the following table:

Calendar Year	Prorate Tax Rate For Vehicle Other	Prorate Tax Rate For Bus

Than a Bus

the acquisition year	5.034%	3.148%
the calendar year following the acquisition year	4.045%	2.529%
the second calendar year following the acquisition year	3.328%	2.079%
the third calendar year following the acquisition year	2.809%	1.757%
the fourth calendar year following the acquisition year	2.441%	1.525%
the fifth calendar year following the acquisition year	2.411%	1.507%
the sixth calendar year following the acquisition year	2.306%	1.441%
the seventh calendar year following the acquisition year	2.272%	1.420%
the eighth calendar year following the acquisition year	2.288%	1.430%
the ninth and subsequent calendar years following the acquisition year	2.343%	1.464%

2001,c.50,s.1.

Prorate tax adjustment

4.7 (1) Notwithstanding sections 4.4 to 4.6, the Minister may adjust the amount of prorate tax payable by a person for an interjurisdictional vehicle for a vehicle licence period by using the actual distance travelled by a fleet during a fleet year that includes the vehicle licence period to calculate the distance ratio if

(a) an estimate of the distance to be travelled by the fleet has been used initially to calculate the distance ratio for the interjurisdictional vehicle for the vehicle licence period pursuant to clause 4.4(b); and

(b) in the Minister's opinion, using the actual distance travelled by the fleet during the fleet year would result in a materially different distance ratio for the interjurisdictional vehicle for the vehicle licence period.

Time frame for adjustment

(2) The Minister may make an adjustment pursuant to subsection (1) at any time within thirty-six months immediately following the end of the fleet year.

Written notice of adjustment

(3) If the Minister makes an adjustment pursuant to this section to the amount of prorate tax payable by a person, the Minister shall send written notice of the adjustment to the person liable to pay the prorate tax.

Changes resulting from adjustment

(4) If, as a result of any adjustment made pursuant to this section, the amount of prorate tax payable by a person is

(a) increased, the person liable to pay the prorate tax shall pay the increased prorate tax in the manner and at the time directed by the Minister; or

(b) decreased, the Minister may provide the person who paid the prorate tax with a refund or credit in the amount of the overpayment. 2001,c.50,s.1.

Transfer to different interjurisdictional fleet

4.8 (1) If an interjurisdictional vehicle that was licensed by a person as part of a fleet (in this section referred to as the "old fleet") is licensed by the person as part of a different fleet before the end of the fleet year (determined as if the interjurisdictional vehicle was not transferred to the different fleet) applicable to the old fleet,

(a) the person shall pay the prorate tax to the Minister for the interjurisdictional vehicle's new vehicle licence period;

(b) the Minister, on application and on receipt of evidence satisfactory to the Minister, may provide to the person a refund or credit, calculated in accordance with regulations, of a portion of the prorate tax paid for the last vehicle licence period of the interjurisdictional vehicle while it was part of the old fleet; and

(c) no refund of prorate tax will be available in respect of clause (b) unless the tax was paid pursuant to clause (a).

Interjurisdictional vehicle licensed for use solely in Province

(2) If a person pays the prorate tax with respect to an interjurisdictional vehicle and the interjurisdictional vehicle is subsequently licensed for use solely within Prince Edward Island,

(a) the owner or lessee of the vehicle shall pay to the Minister, at the time of licensing the vehicle for use solely within Prince Edward Island, the amount of tax payable on the fair value of the vehicle as required pursuant to section 4; and

(b) the Minister may, on application and on receipt of evidence satisfactory to the Minister, provide to the owner or lessee of the vehicle a refund or credit, calculated in accordance with the regulations, of a portion of the prorate tax paid for the last vehicle licence period of the interjurisdictional vehicle before it was licensed for use solely within Prince Edward Island.

(2.01) No refund of prorate tax will be available with respect to clause (2)(b) where the interjurisdictional vehicle is subsequently licensed for use solely within Prince Edward Island after March 31, 2013.

Exception

(2.1) If a person pays the prorate tax with respect to an interjurisdictional vehicle and the interjurisdictional vehicle ceases to be used for an interjurisdictional commercial purpose, for a reason other than for use solely on Prince Edward Island, before the end of the vehicle licence period, the Minister may, on application and on receipt of evidence satisfactory to the Minister, provide to the owner or lessee of the vehicle a refund or credit, calculated in accordance with the regulations, of a portion of the prorate tax paid for the last vehicle licence period of the interjurisdictional vehicle.

Interjurisdictional vehicle no longer registered as part of fleet

(2.2) No refund of prorate tax will be available in respect to subsection (2.1) where the interjurisdictional vehicle ceases to be used for interjurisdictional purposes after March 31, 2013.

Exception

(3) Where a trailer referred to in clause 4.9(1)(b) ceases to be used for an interjurisdictional commercial purpose, the owner or lessee of the trailer shall pay to the Minister, at that time, the amount of tax payable as required pursuant to section 4 on the fair value of the trailer.

Cessation of use of trailer for interjurisdictional commercial purpose

(4) The Minister, on application and on receipt of evidence satisfactory to the Minister, may provide a refund or credit, calculated in accordance with regulations, to a person who licenses an interjurisdictional vehicle in the province for an interjurisdictional commercial purpose if

Refund or credit on transfer to interjurisdictional fleet

(a) the vehicle is so licensed within five years after its acquisition date;

(b) the vehicle was purchased after, or was brought or sent into the province after, the coming into force of this section; and

(c) the person had previously paid tax on the fair value of the vehicle pursuant to section 4. 2001,c.50,s.1; 2005,c.19,s.3; 2012(2nd),c.22,s.26(6).

4.9 (1) The following are exempt from the tax payable pursuant to section 4:

Exemptions from tax payable under section 4

(a) an interjurisdictional vehicle with respect to which the prorate tax has been paid, while the interjurisdictional vehicle is used for an interjurisdictional commercial purpose;

(b) a trailer used with an interjurisdictional vehicle mentioned in clause (a), while the trailer is used for an interjurisdictional commercial purpose;

(c) any repair parts prescribed by regulation that are used on an interjurisdictional vehicle mentioned in clause (a) or a trailer mentioned in clause (b), while the interjurisdictional vehicle or

trailer, as the case may be, is used for an interjurisdictional commercial purpose.

Tax payable on certain equipment

(2) Notwithstanding subsection (1), a person shall pay the tax payable pursuant to section 4 on any equipment that is

(a) permanently mounted on or attached to a trailer used with an interjurisdictional vehicle; and

(b) used or designed for a purpose other than the commercial carriage of goods or passengers. 2001,c.50,s.1.

Transitional exemption

4.10 (1) Prorate tax is not payable by a person who, in the province, licenses an interjurisdictional vehicle for an interjurisdictional commercial purpose for a vehicle licence period that begins before April 2003 if tax was paid by the person pursuant to section 4 on the last acquisition of the vehicle before April 2001.

Transitional refund or credit

(2) If tax was paid pursuant to section 4, on the last acquisition of an interjurisdictional vehicle before April 2001, by a person who licenses the vehicle outside the province for an interjurisdictional commercial purpose, the Minister, on application, may provide a refund or credit, subject to the limitation prescribed by regulation, to the person for the prorate tax paid by the person in respect of the vehicle for a vehicle licence period that begins before April 2003.

Transition time frame

(3) The prorate tax exemption provided for in subsection (1) and the refund or credit provided for in subsection (2) shall not, in any circumstances, be provided for a period exceeding twenty four months. 2001,c.50,s.1.

Ministerial discretion

4.11 Where a person is entitled to a refund or credit pursuant to any of sections 4.7 to 4.10, the Minister may

(a) pay all or a portion of the refund or credit to the person;

(b) credit all or a portion of the amount of the refund or credit against the amount of any tax that the person is required to pay pursuant to this Act; or

(c) pay or credit the refund or credit in a manner prescribed by regulation. 2001,c.50,s.1.

Amusement devices, license fee

5. Repealed by 2012(2nd),c.22,s.26(7). 1988,c.59,s.2; 2012(2nd),c.22,s.26(7).

Pari-mutuels

6. Repealed by 2012(2nd),c.22,s.26(7). 1988,c.59,s.2; 2001,c.49,s.2; 2012(2nd),c.22,s.26(7).

Tax, value of goods and time of payment

7. (1) If the goods to be consumed are purchased at a retail sale within the province, the consumer shall pay the tax computed on the fair value of the goods at the time of the purchase.

(2) If the goods to be consumed are not purchased at a retail sale within the province, the consumer shall pay the tax on the fair value thereof, determined in the manner following:

Tax payable on goods brought into province, when

(a) if the goods are primarily intended for consumption by use only, the tax shall be computed on the fair value of the goods at the time they are brought into the province;

(b) if the goods are primarily intended for consumption otherwise than by use only, the tax shall be computed on the fair value of the goods at the time of consumption.

(3) Where the Commissioner considers it necessary or advisable, he may determine the fair value of any goods for the purposes of taxation under this Act and thereupon the fair value of the goods for this purpose shall be as determined by him.

Determination of fair value

(4) If within the province a person purchases taxable goods from a person residing in the province and trades other taxable goods as part of the consideration of the purchase price, the tax shall be computed on the difference between the fair values of the goods.

Trade-in, tax on difference

(4.01) Subsection (4) does not apply to the private transfer of a motor vehicle, all terrain vehicle, snowmobile or watercraft.

Exemption for private transfer

(4.02) If, within the province, a person acquires, by private transfer, a motor vehicle, all terrain vehicle, snowmobile or watercraft from a person residing in the province and trades another motor vehicle, all terrain vehicle, snowmobile or watercraft as part of the consideration of the purchase price, the tax shall be computed on the difference between the fair values of the goods.

Private transfer trade-in, tax on difference

(4.1) Subsections (4) and (4.02) do not apply to the purchase of taxable goods if either the taxable goods purchased or the taxable goods traded as part of the consideration of the purchase price is an interjurisdictional vehicle licensed for an interjurisdictional commercial purpose.

Exception for interjurisdictional vehicle

(5) If outside the province a person purchases a hearse or ambulance and trades a hearse or ambulance as part of the consideration of the purchase price, the tax shall be computed on the difference between the fair values of the goods. R.S.P.E.I. 1974, Cap. R-14, s.5; 1987,c.63,s.3; 1988,c.60,s.1; 2001,c.50,s.2; 2005,c.50,s.2.

Idem

8. (1) The tax shall be computed to the nearest cent; one-half cent shall be deemed to be one cent, and the minimum tax payable is one cent.

Computing tax

(2) In case of a retail sale within the province the tax shall be computed separately on every purchase but, where on the same occasion, or as part of one transaction several items of goods are purchased, the

Tax computed separately for each purchase & on total of purchases, where

total of such purchase shall be deemed to be one purchase for the purpose of this Act.

Tax to be shown separately

(3) Every vendor or other person required by this Act to collect tax on retail sales shall show the tax separately from the sale price or any other amount being charged on any record, receipt, bill, invoice or other document kept or issued by the vendor or other person. R.S.P.E.I. 1974, Cap. R-14, s.6; 1987,c.63,s.4.

When tax payable

9. (1) In case of a retail sale within the province, the tax shall be payable by the purchaser at the time of the purchase on the whole amount of the purchase price.

Sale by rent or lease

(2) Notwithstanding subsection (1) and section 4, where a consumer

(a) rents or leases from any person any taxable service at a sale in the province; or

(b) acquires goods at a sale that is a lease or rental to him of goods without provision for the transfer to him of title thereto, or with the provision of such transfer only upon the exercise of an option or similar right to acquire such goods,

the tax imposed by this Act shall be computed and collected at the time of, and on the fair value of the consideration given in payment of, each rental payment made by or on behalf of the consumer in respect of the lease or rental of such taxable service or goods, and tax shall, in addition, be computed and collected at the time of, and on the fair value of the consideration given in payment for, each of the obtaining of any option or similar right to acquire the goods leased or rented or the exercising of any such option or similar right.

Report to Commissioner on goods brought into province

(3) Every person who brings or causes to be brought, into the province or who receives delivery in the province of goods, for his own consumption or for the consumption of another person at his expense, or, on behalf of or as agent for a principal who desires to utilize such goods for consumption by such principal or by any other person at his expense, shall immediately report the matter to the Commissioner and forward or produce to him the invoice, if any, in respect of such goods and any other information required by the Commissioner with respect to the same.

Exception

(3.1) Unless otherwise provided for in this Act, subsection (3) does not apply to goods brought or delivered into the province after March 31, 2013.

Consumption, by use, of goods

(4) If the goods so brought in are primarily intended for consumption by use only, he shall pay the tax payable with respect to their consumption at the time the goods are brought into the province.

(5) If the goods are primarily intended for consumption, otherwise than by use only, he shall pay such tax at the time of consumption. R.S.P.E.I. 1974, Cap.R-14,s.7; 1975,c.24,s.2; 1978,c.20,s.4; 2012(2nd),c.22,s.26(8).

Consumption, not by use, of goods

10. Repealed by 1990,c.54,s.29.

Assessment of tax

11. When a vendor sells goods to a person who alleges that he is not purchasing them as a purchaser within the meaning of this Act, that person shall deposit with the vendor an amount equivalent to the amount of the tax for which he would be liable if he were purchasing the goods as a purchaser, and the amount so deposited shall be refunded to him upon application to the Minister and upon furnishing the Minister with proof that he did not purchase the goods as a purchaser. R.S.P.E.I. 1974, Cap. R-14, s.9.

Application for refund

12. (1) A consumer is not liable to pay the tax in respect of the consumption of the following goods:

Exemption from payment of tax

(a) food or beverages for human consumption (including sweetening agents, seasonings and other ingredients to be mixed with or used in the preparation of such food or beverages), except

(i) wine, spirits, beer, malt liquor or other alcoholic beverages,

(ii) non-alcoholic malt beverages,

(iii) carbonated beverages,

(iv) candies, confectionery that may be classed as candy, or any goods sold as candies, such as candy floss, chewing gum and chocolate, whether naturally or artificially sweetened, and including fruits, seeds, nuts and popcorn when they are coated or treated with candy, chocolate, honey molasses, sugar, syrup or artificial sweeteners when purchased at a purchase price of fifty cents or more,

(v) prepared meals,

(vi) prepared food products purchased from an eating establishment but not prepared food products

(A) supplied by a school board primarily to elementary or secondary school students,

(B) other than food supplied through a vending machine, where the purchase is made in an elementary or secondary school cafeteria primarily to students of the school, except where the supply is for a private party, reception, meeting or similar private event,

(C) purchased at a university or public college by a student where a meal is provided under a plan, under which the student purchases from the supplier for a single consideration, a supply of not less than ten meals weekly,

(D) supplied by a public sector body where the supply is made in the course of an activity, the purpose of which is to relieve poverty, suffering or distress of individuals and is not fund-raising,

(E) supplied by a public sector body to aged, infirm, disabled or underprivileged individuals under a program established and operated for the purpose of providing prepared food products to those individuals in their places of residence, or

(F) supplied or sold on an occasional basis by a religious, charitable or benevolent organization where the labour is volunteer and without remuneration, and

(vii) snack foods;

(a.1) to (b) repealed by 1990,c.55,s.1;

(b.1) baby goods as defined by regulation;

(b.2) repealed by 1990,c.55,s.1;

(c) gasoline and diesel oil as defined in the *Gasoline Tax Act* R.S.P.E.I. 1988, Cap. G-3;

(c.1) coal;

(c.2) coke;

(d) stove oil;

(d.1) fuel oil;

(d.2) firewood;

(e) electricity;

(e.1) natural, manufactured and propane gas;

(e.2) repealed by 1993,c.19,s.3;

(f) machinery and equipment including parts therefore, as defined by regulation, when purchased

(i) by a farmer who holds a valid Revenue Tax Exemption Permit, and

(ii) for farm use, and not for any other commercial operation;

(f.01) machinery and equipment including parts therefor, as defined by regulation, when purchased

(i) by a silviculturist who holds a valid Revenue Tax Exemption Permit, and

(ii) for silviculture use, and not for any other commercial operation;

(f.1) boats, fishing nets and other apparatus, including parts therefore, as defined by regulation, when purchased by a commercial fisherman or an aquaculturist

(i) who holds a valid Revenue Tax Exemption Permit, and

(ii) for use in that person's trade, and not for use in any other commercial operation;

(f.2) natural water, including ice and steam;

(g) clay, gravel, unfinished stone and natural sand, but excluding blasting sand;
(g.1) repealed by 1991,c.35,s.2;
(g.2) dentures, dental and optical appliances, when purchased on the prescription of a dentist, optometrist or medical practitioner;
(h) artificial limbs, orthopedic appliances and equipment, designed solely for the use of the physically handicapped;
(h.1) hearing aids;
(h.2) drugs and medicines, when purchased on the prescription of a medical practitioner, dentist or veterinarian;
(h.3) horses;
(h.4) transformers, switch gear, capacitors and circuit breakers used directly in the distribution of the electricity;
(h.5) repealed by 2001,c.49,s.3;
(h.6) renewable energy equipment as defined by the regulations;
(i) machinery, apparatus and complete parts therefor, as defined by regulation, used directly in the manufacture or production of goods for sale, but excluding storage and conditioning facilities, and where partly used in such manufacture or production of goods for sale and partly used for other purposes, the exemption conferred by this clause shall be determined on the basis of the proportion of the time in which the machinery or apparatus is used in such manufacture or production;
(i.1) machinery and apparatus purchased by manufacturers or producers for use by them directly in the detection, measurement, prevention, treatment, reduction or removal of pollutants to water, soil or air, attributable to the manufacture or production of goods;
(i.2) a mobile home that has previously been sold at a retail sale in the province made in good faith and for valuable consideration;
(i.3) motorized equipment, and complete parts for the motorized equipment, designed specifically for shaving, cleaning, and flooding ice, when purchased for use in community operated skating and hockey rinks;
(j) goods purchased for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into goods for the purpose of sale;
(j.1) materials consumed or expended in the manufacture or production of goods for sale as defined by regulation;
(j.2) grain, milled products and other agricultural feeds;
(k) to (n) repealed by 1991,c.35,s.2;
(n.1) goods to be shipped by the seller for delivery outside the province;

(o) ship stores delivered to a commercial vessel or boat that normally operates in extra-territorial waters, excluding boats used for recreational or sporting purposes and yachts;
(o.1) repealed by 2002,c.41,s.2;
(o.2) aircraft normally engaged in foreign or interprovincial public carriage of passengers or freight for gain;
(p) repealed by 1990,c.56,s.2;
(p.1) newspapers;
(q) magazines and periodicals, when purchased by subscription for delivery by mail;
(q.1) articles of clothing, including fabrics and accessories, as defined by the regulations;
(r) footwear as defined by the regulations;
(r.1) safety clothing and safety footwear as defined by regulation;
(s) funeral caskets;
(s.1) classroom supplies as defined by regulation;
(t) textbooks as prescribed in the syllabus of studies in any school, college, university, business college or trade school within the province, and books or other goods used for religious instruction or the practice of religion;
(t.1) tobacco;
(u) commercial vessels or boats that normally operate in extra-territorial waters, and repairs thereto, but excluding boats used for recreational or sporting purposes and yachts;
(u.1) books, either hard covered or paper backed, compact discs and audio cassettes that

(i) are published, produced or recorded solely for educational, technical, cultural or literary purposes, and
(ii) contain no advertising,

but not including magazines, periodicals, directories, price lists, time tables, rate books, catalogues, periodic reports, albums, books for writing or drawing on, or any books of the same general class, or any music or movie compact discs or any other media of the same general class.
(u.2) repealed by 2002,c.23,s.1;
(v) settlers' effects as defined by regulation;
(v.1) repealed by 1993,c.19,s.3;
(w) smoke detectors, fire extinguishers and car safety seats for children;
(w.01) water and energy conservation devices as defined by the regulations;
(w.1) coin, paper money or bank notes to the extent of the face value in Canadian funds;

(x) uncancelled Canadian postage stamps to the extent of the face value in Canadian funds;
(x.1) trade dollars;
(y) films provided to movie theatres by a film distributor for exhibition;
(y.1) specified goods as defined by regulation when purchased by municipalities;
(y.2) 800 telephone service as defined by regulation;
(y.3) outbound high-volume telephone service as defined by regulation;
(z) Remembrance Day poppies and wreaths;
(z.1) admission charges to any of the following:
(i) agricultural or fishery fairs,
(ii) athletic contests or games
(A) in which the participants are amateur athletes or school, college or university students,
(B) where the person paying the admission charge is not a participant but merely a spectator, and
(iii) entertainments given by school, college, or university students, Home and School Associations, church groups or similar organizations where the total net proceeds from such entertainments go to a school, college or university within the province or to an accredited organization within the province for charitable, educational, religious or community purposes,
(iv) live entertainments which are subsidized wholly or principally, directly by public funds or by funds provided by the Canada Council,
(v) film presentations by a community film society where admission is limited to members of the society, and concerts or recitals sponsored by a community concert association or similar organization,
(vi) festivals of music or drama presentations where the participants are not paid in cash or in kind for their services,
(vii) skating rinks where the persons attending do so for the purpose of participating in the exercise of skating or attending at, or participating in, an amateur ice carnival,
(viii) harness racing.

Prorating tax for machinery and apparatus used in non-exempt activity

(2) For the purposes of clause (1)(i) where the machinery and apparatus is to be used in part directly in the process of manufacture or production of goods for sale, a proportion of the tax is payable based on the proportion of the time in which the machinery or apparatus is to be used for other activities.

Exemption for Indians

(3) A consumer who is an Indian as defined in the Indian Act R.S.C. 1985, Cap. I-5 is not liable to pay the tax in respect of the purchase of goods, other than prepared meals, prepared food products purchased from an eating establishment, spirits, wines or beer, that are to be consumed on a reserve.

Exemption for recipient of promotional distribution

(4) A person to whom goods are provided by way of promotional distribution is exempt from the tax on the amount by which the fair value of the goods exceeds any payment made by him solely and specifically for the receipt by him of those goods.

Exemption for school boards

(5) A school board is not liable to pay the tax in respect of the purchase of prepared food products that are to be supplied primarily to elementary or secondary school students. R.S.P.E.I. 1974, Cap. R-14, s.10; 1975,c.24,s.3; 1975,c.56,s.1; 1976,c.27,s.1; 1978,c.20,s.5; 1979,c.16,s.2; 1980,c.47,s.3; 1982,c.26,s.1; 1985,c.37,s.2; 1986,c.18,s.3; 1987,c.63,s.6; 1988,c.59,s.4; 1988,c.60,s.4; 1990,c.55,s.1; 1990,c.56,s.3; 1991,c.35,s.2; 1990,c.54,s.29; 1990,c.55,s.1; 1990,c.56,s.3;1991,c.35,s.2; 1993,c.19,s.3; 1994,c.54,s.1; 1995,c.33,s.5; 1996,c.37,s.1; 1996,c.38,s.1; 1997,c.57,s.3; 1997,c.57,s.4; 1998,c.7,s.1; 2001,c.49,s.3; 2002,c.41,s.2; 2002,c.23,s.1; 2004,c.46,s.2; 2005,c.51,s1; 2005,c.19,s.4; 2007,c.15,s.2; 2009,c.18,s.2.

Registration certificate, vendor required to have

13. (1) No vendor

(a) shall sell or permit to be sold goods in the province at a retail sale unless he is the holder of a registration certificate issued to him under this Act and the certificate is in force at the time of sale;

(b) shall purchase goods in the province for sale at retail in the province unless he is the holder of a registration certificate issued to him under this Act, and the certificate is in force at the time of purchase.

Idem

(2) No wholesaler shall sell in the province to a vendor goods for sale at retail in the province unless the vendor is the holder of a registration certificate issued to him under this Act and the certificate is in force at the time of the sale. R.S.P.E.I. 1974, Cap. R-14, s.11; 1987,c.63,s.7.

Issuance of certificate

14. The Minister may issue a registration certificate to a vendor upon application to the Minister in the manner and form prescribed by the Minister. R.S.P.E.I. 1974, Cap. R-14, s.12.

Keeping of certificate; transferability

15. A registration certificate shall be kept at the principal place of business of the vendor in the province and is not transferable. R.S.P.E.I. 1974, Cap. R-14, s.13.

Advertising taxable goods on television

15.1 Repealed by 2001,c.49,s.4.

16. (1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations

Regulations re cancellation or suspension of a registration

(a) providing for the cancellation or suspension and for the reinstatement of the registration certificate of a vendor who has been found guilty of an offence under this Act or who is in default in the payment of any taxes which are due and payable under this Act or against whom a judgment has been issued under section 38;

(b) designating the offences for which such registration certificate shall be cancelled; and

(c) setting out the terms and conditions under which a registration certificate which has been cancelled or suspended may be reinstated.

Effective date of regulations

(2) No regulation made under subsection (1) has any force or effect until published in the Gazette. R.S.P.E.I. 1974, Cap. R-14, s.14.

Assignees, liquidators, etc. to obtain registration certificate

17. (1) Every person who, as assignee, liquidator, administrator, receiver, receiver-manager, trustee or other like person, other than a trustee appointed under the *Bankruptcy Act* R.S.C. 1985, Chap. B-3, takes control or possession of the property of any vendor or carries on or manages the business of the vendor shall, before carrying on or managing the business or before distributing the property or proceeds from the realization thereof under his control or possession, obtain from the Minister a registration certificate prescribed by section 14 and shall be deemed to be a vendor for all purposes of this Act.

Remission

(2) Any person referred to in subsection (1) who takes control or possession of the property of any vendor or who carries on or manages the business of any vendor shall remit to the Minister an amount equal to all unremitted taxes collected by and deposits made with the vendor at such time or times and in such manner as is required under the *Revenue Administration Act* and its regulations.

Personal liability

(3) Any person referred to in subsection (1) who takes control or possession of the property of a vendor or who carries on or manages the business of a vendor and

(a) distributes the property or proceeds from the realization thereof under his control or possession without having obtained the registration certificate required under subsection (1); or

(b) distributes any unremitted taxes collected by and deposits made with the vendor,

is personally liable to the Government for any amount that is due and payable to the Government under this Act.

Limit of personal liability

(4) The personal liability of a person referred to in subsection (3) is limited to the lesser of

(a) an amount equal to the unremitted taxes collected by and deposits made with the vendor; and

(b) the value of the property or proceeds from the realization of the property,

notwithstanding any charges, liens or other security taken against or affecting the vendor's assets. 1980,c.47,s.4; 1990,c.56,s.4; 1990,c.54,s.29; 2008,c.61,s.1.

Injunction

18. A violation of section 13 or of a term or condition of a registration certificate may, whether or not a penalty is imposed for the violation, be restrained by proceedings in the Supreme Court. 1987,c.63,s.8.

Vendors, agents of Minister re collection of tax

19. Every vendor is an agent of the Minister for the purpose of collecting the tax imposed by section 4, and payable under section 9, and as such shall collect the tax. R.S.P.E.I. 1974, Cap. R-14, s.15; 1987,c.63,s.9.

Vendors, agents of Minister, re receipt of deposits

20. Every vendor shall be an agent of the Minister for the purpose of receiving deposits made under section 11, and as such shall receive such deposits. R.S.P.E.I. 1974, Cap. R-14, s.16.

Used motor vehicle dealer

20.1 (1) In this section, "used motor vehicle dealer" means a person who holds a dealer's trade license under the *Highway Traffic Act* of a type that authorizes the person to deal only in used motor vehicles.

Restriction on collection of tax

(2) Notwithstanding section 19, a vendor who is a used motor vehicle dealer

(a) is not an agent of the Minister for the purpose of collecting the tax imposed by section 4, and payable under section 9, on the sale of a used motor vehicle; and

(b) shall not collect the tax on the sale of a used motor vehicle.

Restriction on receipt of deposits

(3) Notwithstanding section 20, a vendor who is a used motor vehicle dealer

(a) is not an agent of the Minister for the purpose of receiving deposits made under section 11; and

(b) shall not receive such deposits.

Payment of deposit to Minister

(4) Where a person

(a) purchases a used motor vehicle from a vendor who is a used motor vehicle dealer; and

(b) is required by section 11 to make a deposit in respect of the purchase,

the person shall pay the deposit directly to the Minister, rather than to the vendor. 2005,c.19,s.5.

Tax payable at time of purchase

21. The tax imposed by section 4, and payable under section 9, or a deposit made under section 11, whether the purchase price is stipulated

to be payable in cash or on terms or by instalments or otherwise, shall be collected or made as the case may be, at the time of the purchase on the whole amount of the purchase price. R.S.P.E.I. 1974, Cap. R-14, s.17; 1987,c.63,s.9.

Sections **22** to **27** repealed by 1990,c.54,s.29.

Copy of bill of sale

28. Any person, other than a vendor, who makes a retail sale within the province to a consumer, shall, upon the written request of the Minister, provide the Minister with a copy of the bill of sale or such other document relating to the sale as he may require. 1987,c.63,s.11.

Sections **29** to **49** repealed by 1990,c.54,s.29.

No notice of refund by vendor

50. Repealed by 2001,c.49,s.5.

Sections **51** to **55** repealed by 1990,c.54,s.29.

Definitions

56. (1) For the purposes of this section,

(a) "sale in bulk" means

(i) any sale, transfer, conveyance, barter or exchange of a stock or part thereof, out of the usual course of business or trade of the vendor,

(ii) a sale, transfer, conveyance, barter or exchange of substantially the entire stock of the vendor,

(iii) a sale, transfer, conveyance, barter or exchange of an interest in the business of the vendor; and

(b) "stock" includes any goods which are ordinarily the subject of trade and commerce, and the goods ordinarily used in connection with any business.

Certificate evidencing taxes paid

(2) No person shall dispose of stock through a sale in bulk without first obtaining a certificate from the Commissioner that all taxes collected by such person or payable by such person have been paid to the Minister.

Effect of failure to obtain certificate

(3) Every person purchasing stock through a sale in bulk shall obtain a copy of the certificate issued under subsection (2) from the person selling the stock and, failing to do so, is responsible for payment to the Minister of an amount equal to all unremitted taxes collected and all other taxes collectable or payable by the person thus disposing of the stock through a sale in bulk.

Limit of liability

(4) The liability of a person purchasing stock through a sale in bulk is limited to the lesser of

(a) an amount equal to the unremitted taxes collected and all other taxes collectable or payable by the person disposing of the stock; and

(b) the value of the stock purchased. R.S.P.E.I.

Exception

(5) Unless otherwise provided for in this Act, the requirements of section 56 do not apply after March 31, 2013. 1974, Cap. R-14, s.53; 1990,c.56,s.6,s.7; 2001,c.49,s.6; 2012(2nd),c.22,s.26(9).

Regulations

57. (1) For the purpose of giving effect to the provisions of this Act according to their true intent and of supplying any deficiency therein, the Lieutenant Governor in Council may make such regulations as are considered necessary or advisable.

Idem

(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations

(a) to (d) repealed by 1990,c.54,s.29;

(e) providing for the rebate of the tax in whole or in part to the Crown; religious, charitable or benevolent organizations, schools, colleges or universities with respect to the purchase of goods entering into capital investment by such organizations; and to purchasers in exceptional circumstances; and for defining the nature of such circumstances; and for the terms and conditions under which rebates may be made;

(f) defining any expression used in the Act and not herein defined;

(g) providing for relaxing the strictness of the Act relative to the incidence or collection of the tax thereunder in cases where, without relaxation, great inconvenience or hardship might result; including cases involving the purchase of goods at church sales or bazaars, and rummage sales, and involving the purchase of goods entering into capital investment by religious, charitable or benevolent organizations, schools, colleges or universities;

(h) providing for the posting of bonds by vendors or consumers in favour of the Government, the amounts, terms and conditions of the bonds and the disposition of the proceeds of the bonds;

(i) providing for and regulating the rebate of the tax paid by a consumer on the purchase of materials that are incorporated into windmills, solar-heating systems, and water-power systems;

(j) repealed by 1990,c.54,s.29;

(k) providing for and regulating the rebate of the tax paid by an aquaculturist or silvaculturist on the purchase of certain goods;

(l) repealed by 1990,c.54,s.29; and

(m) providing for and regulating the refund of the tax paid by a consumer on the purchase of a hybrid vehicle, as defined in the regulations.

Publication in Gazette

(3) No regulations made under this Act shall have any force or effect until published in the Gazette. R.S.P.E.I. 1974, Cap. R-14, s.54;

1975,c.25,s.1; 1976,c.27,s.2; 1982,c.26,s.4; 1987,c.63,s.21; 1990,c.54,s.29; 2004,c.46,s.3.

Transitional Rules Respecting the Application of the H.S.T.

When consideration, etc., becomes due

58. For the purposes of sections 59 to 65, an amount that is a payment of all or part of the consideration for a good becomes due the earliest of the following:

(a) the earlier of

(i) the day an invoice is first issued for that amount**,** and

(ii) the date of that invoice;

(b) the day the invoice would have been issued for that amount but for an undue delay;

(c) the day the purchaser is required to pay that amount pursuant to an agreement in writing. 2012(2nd),c.22,s.26(10).

Goods, sale after March 31, 2013

59. The following rules apply to the purchase of any good referred to in subclauses 1(e)(i) and (iii), excluding a mobile home or modular home, if the time of the sale is after March 31, 2013:

(a) notwithstanding subsection 4(2), tax is payable by the purchaser under subsection 4(1),

(i) if the purchaser is a specified purchaser and all or part of the consideration becomes due before February 1, 2013, or is paid before February 1, 2013, without having become due, or

(ii) if the purchaser is not a specified purchaser and all or part of the consideration becomes due before November 9, 2012, or is paid before November 9, 2012, without having become due;

(b) if clause (a) applies, the fair value for the purposes of subsection 4(1) is deemed to be,

(i) if the purchaser is a specified purchaser, the value of the consideration that becomes due before February 1, 2013, or that is paid before February 1, 2013, without having become due, or

(ii) if the purchaser is not a specified purchaser, the value of the consideration that becomes due before November 9, 2012, or that is paid before November 9, 2012, without having become due. 2012(2nd),c.22,s.26(10).

Service provided only after March 31, 2013

60. The following rules apply to the purchase of a service referred to in subclauses 1(e)(ii) and (iv) that is provided only after March 31, 2013:

(a) notwithstanding subsection 4(2), tax is payable by the purchaser under subsection 4(1)

(i) if the purchaser is a specified purchaser and all or part of the consideration becomes due before February 1, 2013, or is paid before February 1, 2013, without having become due, or

(ii) if the purchaser is not a specified purchaser and all or part of the consideration becomes due before November 9, 2012, or is paid before November 9, 2012, without having become due;

(b) if clause (a) applies, the fair value for the purposes of subsection 4(1) is deemed to be

(i) if the purchaser is a specified purchaser, the value of consideration that becomes due before February 1, 2013, or that is paid before February 1, 2013, without having become due, or

(ii) if the purchaser is not a specified purchaser, the value of the consideration that becomes due before November 9, 2012, or that is paid before November 9, 2012, without having become due. 2012(2nd),c.22,s.26(10).

Service not substantially completed before April 1, 2013

61. The following rules apply to the purchase of a service referred to in subclauses 1(e)(ii) and (iv) that begins before April 1, 2013, and is not substantially completed before April 1, 2013:

(a) unless otherwise provided in this Act, no tax is payable by the purchaser under subsection 4(1) in respect of that part of the service provided on or after April 1, 2013;

(b) notwithstanding clause (a), tax is payable by the purchaser under subsection 4(1)

(i) if the purchaser is a specified purchaser and all or part of the consideration becomes due before February 1, 2013, or is paid before February 1, 2013, without having become due, or

(ii) if the purchaser is not a specified purchaser and all or part of the consideration becomes due before November 9, 2012, or is paid before November 9, 2012, without having become due;

(c) if clause (b) applies and the purchaser is a specified purchaser, the fair value for the purposes of subsection 4(1) is deemed to be the sum of

(i) the value of the consideration that becomes due before February 1, 2013, or that is paid before February 1, 2013, without having become due, and

(ii) the value of the consideration

(A) that relates to the part of the service provided before April 1, 2013, and

(B) that becomes due after January 31, 2013, or that is paid after January 31, 2013, without having become due before February 1, 2013;

(d) if clause (b) applies and the purchaser is not a specified purchaser, the fair value for the purposes of subsection 4(1) is deemed to be the sum of

(i) the value of the consideration that becomes due before November 9, 2012, or that is paid before November 9, 2012, without having become due before that day, and

(ii) the value of the consideration

(A) that relates to the part of the service provided before April 1, 2013, and

(B) that becomes due after November 8, 2012, or that is paid after November 8, 2012, without having become due before November 9, 2012. 2012(2nd),c.22,s.26(10).

Rental or lease payments, periods beginning after March 31, 2013

62. The following rules apply with respect to consideration paid by a purchaser in respect of a rental or lease payment for the rent or lease of goods at a sale that is a lease or rental referred to in subsection 9(2) for a rental period beginning after March 31, 2013:

(a) notwithstanding subsection 4(2), tax is payable by the purchaser under subsection 4(1)

(i) if the purchaser is a specified purchaser and all or part of the consideration becomes due before February 1, 2013, or is paid before February 1, 2013, without having become due, or

(ii) if the purchaser is not a specified purchaser and all or part of the consideration becomes due before November 9, 2012, or is paid before November 9, 2012, without having become due;

(b) if clause (a) applies, the fair value for the purposes of subsection 4(1) is deemed to be

(i) if the purchaser is a specified purchaser, the fair value of the consideration that becomes due before February 1, 2013, or that is paid before February 1, 2013, without having become due, or

(ii) if the purchaser is not a specified purchaser, the fair value of the consideration that becomes due before November 9, 2012, or that is paid before November 9, 2012, without having become due. 2012(2nd),c.22,s.26(10).

Rental or lease payments, periods ending after April 30, 2013

63. The following rules apply with respect to consideration paid by a purchaser in respect of a rental or lease payment for the rent or lease of goods at a sale that is a lease or rental referred to in subsection 9(2) for a rental period ending on or after May 1, 2013:

(a) unless otherwise provided in this Act, no tax is payable by the purchaser under subsection 4(1) in respect of the part of the payment that relates to any part of the rental or lease period that is after March 31, 2013;

(b) notwithstanding clause (a), tax is payable by the purchaser under subsection 4(1)

(i) if the purchaser is a specified purchaser and all or part of the consideration becomes due before February 1, 2013, or is paid before February 1, 2013, without having become due, or

(ii) if the purchaser is not a specified purchaser and all or part of the consideration becomes due before November 9, 2012, or is paid before November 9, 2012, without having becomes due;

(c) if clause (b) applies and the purchaser is a specified purchaser, the fair value for the purposes of subsection 4(1) is deemed to be the sum of

(i) the fair value of the consideration that becomes due before February 1, 2013, or that is paid before February 1, 2013, without having become due, and

(ii) the fair value of the consideration

(A) that relates to any part of the period that is before April 1, 2013, and

(B) that becomes due after January 31, 2013, or that is paid after January 31, 2013, without having become due before February 1, 2013;

(d) if clause (b) applies and the purchaser is not a specified purchaser, the fair value for the purposes of subsection 4(1) is deemed to be the sum of

(i) the fair value of the consideration that becomes due before November 9, 2012, or that is paid before November 9, 2012, without having become due, and

(ii) the fair value of the consideration

(A) that relates to any part of the period that is before April 1, 2013, and

(B) that becomes due after November 8, 2012, or that is paid after November 8, 2012, without having become due before November 9, 2012. 2012(2nd),c.22,s.26(10).

Definitions

64. (1) In this section,

capital property

(a) "capital property" has the same meaning as in the *Income Tax Act* (Canada);

construction material

(b) "construction material", in relation to construction material held by a contractor, does not include property that is capital property of the contractor;

residential complex

(c) "residential complex" has the same meaning as in Part IX of the federal Act;

substantial renovation

(d) "substantial renovation" has the same meaning as in Part IX of the federal Act.

Refund in respect of construction material

(2) Subject to subsection (3), on application made on or before September 30, 2013, the commissioner may pay to an applicant a refund of the tax paid under the Act in respect of tangible personal property that is construction material if the commissioner is satisfied that

(a) the applicant is a contractor who paid tax under the Act in respect of the construction material;

(b) the construction material is held in the contractor's inventory at the end of the day on March 31, 2013;

(c) on or after April 1, 2013, and on or before September 30, 2013, the contractor incorporates the construction material into a residential complex in the course of fulfilling a contract to repair or improve the residential complex but not in the course of fulfilling a contract

(i) relating to a substantial renovation of a residential complex, or

(ii) relating to the construction of a new residential complex; and

(d) tax is payable under subsection 165(2) of the federal Act in respect of the supply under the contract to repair or improve the residential complex.

Idem, multi-use building

(3) If the residential complex is part of a multi-use building, the refund is limited to be in respect of that portion of the construction material that the commissioner considers to have been reasonably used to repair or improve the residential complex.

When refund not payable

(4) Despite subsection (3), the Commissioner may not pay a refund under subsection (3) in respect of tangible personal property to the extent that the applicant has received or is eligible to receive, directly or indirectly, an amount from the government, the Government of Canada or a municipality in respect of the tax paid under the Act in respect of that tangible personal property. 2012(2nd),c.22,s.26(10).

Progress payment, on certain contracts

65. Despite sections 59 to 63 the tax imposed under subsection 4(1) shall apply in the manner prescribed by the Minister if,

(a) a purchaser acquires tangible personal property or a taxable service under a contract to construct, renovate, alter or repair real property, a ship or a vessel; and

(b) progress payments under the contract with respect to the tangible personal property or taxable service become due or are paid without becoming due after November 8, 2012, and before April 1, 2013. 2012(2nd),c.22,s.26(10).

Application of tax to new modular or mobile homes

66. The following rules apply to the purchase of a good which is a mobile home or modular home:

(a) if tax under subsection 165(2) of the *Excise Tax Act* (Canada) is payable on the purchase of the mobile home or modular home, tax is not payable by the purchaser under subsection 4(1); and

(b) otherwise, notwithstanding subsection 4(2), tax is payable by the purchaser under subsection 4(1). 2012(2nd),c.22,s.26(10).