



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

RETAIL SALES TAX ACT

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 King'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* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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RETAIL SALES TAX ACT

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RETAIL SALES TAX ACT

CHAPTER R-13.03

INTERPRETATION

1. Definitions

In this Act,

- (a) “**boat**” includes any watercraft regardless of the method of propulsion or lack of method of propulsion, but does not include a floating home, or other floating structure or device that is used principally for purposes other than transportation;
- (b) “**Commissioner**” means the Provincial Tax Commissioner provided under the *Revenue Administration Act* R.S.P.E.I. 1988, Cap. R-13.2;
- (c) “**Comprehensive Integrated Tax Coordination Agreement**” means the Comprehensive Integrated Tax Coordination Agreement referred to in subsection 3(1), as amended;
- (d) “**designated property**” means a vehicle, boat or aircraft;
- (e) “**entry date**”, in relation to designated property, means the date on which the designated property subject to tax under this Act is first brought or sent into or delivered in Prince Edward Island;
- (f) “**exempt use**”, in relation to designated property, means
 - (i) the exercising of a right or power over, or the storing or keeping of, designated property that was brought or sent into or delivered in Prince Edward Island for the sole purpose of subsequently transporting it outside Prince Edward Island for use outside Prince Edward Island,
 - (ii) the storing or keeping of designated property that was brought or sent into or delivered in Prince Edward Island for the sole purpose of being repaired and, after repair, being transported outside Prince Edward Island for use outside Prince Edward Island, and
 - (iii) the storing or keeping of designated property for the sole purpose of resale;
- (g) “**fair market value**”, in relation to designated property, means the price at which the legal and beneficial interest in the designated property would, if unencumbered, be conveyed by a willing seller acting in good faith to a willing buyer acting in good faith in an arm’s length sale in the open market, determined in a manner that includes any consideration and charges referred to in subclauses (i) and (ii) of the definition of “**purchase price**”;
- (h) “**federal Act**” means the *Excise Tax Act* (Canada);
- (i) “**Minister**” means the Minister of Finance;

- (j) “**person**” includes a corporation, a municipal corporation, an education authority and any other board, commission, committee or authority established by the government or municipality for public or local purposes;
- (k) “**purchase price**”, in relation to a sale of designated property, means all consideration that the seller or person from whom the property passes accepts as the price or on account of the price of the designated property covered by the sale, including, without limitation, the following:
- (i) any consideration for any property attached to, stored in or used in connection with the operation of the designated property that passes to the person who acquires the designated property within 30 days of the sale, whether or not shown separately on any record of the sale or billed separately,
 - (ii) any charges for
 - (A) transportation or delivery of the designated property sold, or
 - (B) interest, finance, service, customs and excise charges in relation to the designated property sold
- that are incurred at or before the time that title to the designated property covered by the sale passes under that sale, whether or not those charges are shown separately on any record of the sale, but does not include interest charges on a conditional sale contract if the amount of those charges is segregated on the record of sale or is billed separately to the purchaser, and is payable over the term of the contract;
- (l) “**purchaser**”, in relation to designated property, means a person who acquires designated property at a sale anywhere
- (i) for the person’s own consumption or use in Prince Edward Island,
 - (ii) for consumption or use in Prince Edward Island by another person at the expense of the person acquiring the designated property, or
 - (iii) on behalf of or as agent for a principal, if the designated property is for consumption or use in Prince Edward Island by the principal or by another person at the expense of that principal;
- (m) “**registrant**” has the same meaning as in Part IX of the federal Act;
- (n) “**sale**” includes a conditional sale, a transfer of title or possession, conditional or otherwise, a sale on credit or for which the price is payable by instalment, an exchange, barter or any other contract by which, at a price or other consideration, a person delivers designated property to another person;
- (o) “**supply**” has the same meaning as in Part IX of the federal Act;
- (p) “**tax**” means a tax imposed pursuant to this Act, and includes all penalties and interest that are, may be or may have been added to such a tax pursuant to the *Revenue Administration Act*;
- (q) “**taxable supply**” has the same meaning as in Part IX of the federal Act;
- (r) “**taxable value**”, in relation to designated property, means
- (i) for designated property other than vehicles, subject to subclause (ii), the fair market value of the designated property,
 - (ii) if section 16 of this Act applies in respect of the designated property, the taxable value of the designated property as determined under that section,
 - (iii) in relation to designated property that is a vehicle, subject to subclause (ii), and that is not being transferred as described in subclause (iv), the greater of
 - (A) the purchase price of the designated property, and

- (B) the lesser of,
 - (I) the value of the designated property as set out in such trade valuation books as may be prescribed for the purposes of determining the value of the designated property, or
 - (II) the value of the designated property, as set out in a written appraisal, if any, obtained by the purchaser from such a person as may be authorized in the regulations to give such an appraisal for the purposes of this provision, and
- (iv) in relation to designated property that is a vehicle and that is being transferred between a person and members of his family, as prescribed by the regulations, the purchase price;
- (s) “**use**”, in relation to designated property, includes
 - (i) the exercise of any right or power over designated property incidental to the ownership of it other than the sale of the property,
 - (ii) the storing or keeping of designated property for any purpose,
 - (iii) the employment or utilization of designated property by its owner, an employee of that owner or an independent contractor retained by that owner, in the course of carrying out work or performing services for another person, and
 - (iv) the consumption, employment or utilization of designated property by a business in the course of delivering a service,
 but does not include an exempt use;
- (t) “**vehicle**” includes
 - (i) a motor vehicle as defined in the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5, and
 - (ii) an all-terrain vehicle and snow vehicle, each as defined in the *Off-Highway Vehicle Act* R.S.P.E.I. 1988, Cap. O-3. *2012(2nd),c.22,s.1; 2015,c.28,s.3; 2016,c.6,s.129.*

2. Taxable supply made in PEI

For the purposes of this Act, a taxable supply is made in Prince Edward Island if the supply is deemed to be made in Prince Edward Island under section 144.1 of the federal Act. *2012(2nd),c.22,s.2.*

PART 1 — HARMONIZED SALES TAX

Comprehensive Integrated Tax Coordination Agreement

3. Agreement

- (1) The Comprehensive Integrated Tax Coordination Agreement entered into on November 26, 2012, between the Minister on behalf of the Government of Prince Edward Island and the Minister of Finance for Canada on behalf of the Government of Canada, is ratified and confirmed and valid for all purposes.

Other agreements or arrangements

- (2) The Minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the Government of Prince Edward Island, enter into such other agreements or arrangements with the Government of Canada as either of them considers necessary or advisable respecting any matter relating to the Comprehensive Integrated Tax Coordination Agreement and its implementation.

Amendments

- (3) The Minister may, with the approval of the Lieutenant Governor in Council and on behalf of the Government of Prince Edward Island, enter into an agreement with the Government of Canada amending or varying
- (a) the Comprehensive Integrated Tax Coordination Agreement; or
 - (b) any agreement entered into under subsection (2). *2012(2nd),c.22,s.3.*

4. Minister may make payments

The Minister is authorized to make payments from the Operating Fund in accordance with the Comprehensive Integrated Tax Coordination Agreement and any agreement entered into under subsection 3(2) from amounts appropriated by the Legislature for those purposes. *2012(2nd),c.22,s.4.*

Point-of-Sale Rebates

5. Definitions

- (1) In this section and sections 6 to 9,
- (a) “**Federal Minister**” means a minister of the Government of Canada who is responsible for the administration, enforcement or collection of tax imposed under Part IX of the federal Act;
 - (b) “**qualifying property**” means any of the following:
 - (i) children’s clothing, as defined in the regulations,
 - (ii) children’s footwear, as defined in the regulations,
 - (iii) heating oil, as defined in the regulations,
 - (iv) books, as defined in the regulations;
 - (c) “**supplier**” has the same meaning as in Part IX of the federal Act.

Resident, persons deemed to be

- (2) For the purposes of section 7, a person is resident in Prince Edward Island if the person is deemed to be resident in Prince Edward Island under section 132.1 of the federal Act. *2012(2nd),c.22,s.5.*

6. Rebate from supplier

- (1) If a person is required to pay tax under subsection 165(2) of the federal Act in respect of a taxable supply made in Prince Edward Island of qualifying property, the supplier, on behalf of the Minister, may pay or credit the person an amount equal to the tax imposed in respect of the supply under that subsection of the federal Act.

Credit or payment to supplier

- (2) If a supplier pays or credits an amount under subsection (1), the Federal Minister, on behalf of the Minister, may pay or credit an equal amount to the supplier.

Rebate from Federal Minister

- (3) On application submitted to the Federal Minister by a person to whom an amount may be paid or credited under subsection (1), the Federal Minister, on behalf of the Minister, may pay the person the amount if the amount is not paid or credited by the supplier.

Application for rebate

- (4) An application under subsection (3) shall be made in the form and manner required by the Federal Minister.

When rebate not permitted

- (5) An amount shall not be paid by the Federal Minister under subsection (3) if the person makes an application under that subsection for the amount more than four years after the day the tax under subsection 165(2) of the federal Act became payable in respect of the qualifying property. *2012(2nd),c.22,s.6.*

7. Rebate on imported qualifying property

If a person who is resident in Prince Edward Island is required to pay tax under section 212.1 of the federal Act in respect of qualifying property, the Federal Minister, on behalf of the Minister, may pay or credit the person an amount equal to the tax imposed in respect of the property under that section of the federal Act. *2012(2nd),c.22,s.7.*

8. Rebate on qualifying property brought into Prince Edward Island

The Federal Minister, on behalf of the Minister, may pay or credit a person an amount equal to the tax imposed under section 218.1 or Division IV.1 of Part IX of the federal Act in respect of qualifying property in the following circumstances:

- (a) the physical possession of the property is transferred to the person in Prince Edward Island and the person shall pay tax under paragraph 218.1(1)(b)(i) of the federal Act in respect of the property;
- (b) the property is delivered or made available to the person in Prince Edward Island, the person is resident in Prince Edward Island or is a registrant, and the person shall pay tax under paragraph 218.1(1)(b)(ii) of the federal Act in respect of the property;
- (c) the supply of the property is made in Prince Edward Island and the person shall pay tax under paragraph 218.1(1)(b)(iii) of the federal Act in respect of the property;
- (d) the property is brought or sent into Prince Edward Island or is delivered or made available in Prince Edward Island and the person shall pay tax under Division IV.1 of Part IX of the federal Act in respect of the property. *2012(2nd),c.22,s.8.*

9. Deduction of payments

- (1) If the Federal Minister pays or credits an amount under subsection 6(2) or (3) or section 7 or 8, the Minister of Finance for Canada may deduct from or set off against a payment made or to be made by the Government of Canada to the Minister an amount equal to the amount that is paid or credited.

Payment or credit reduces revenue due to Province

- (2) A payment or credit under this Part in respect of qualifying property shall be considered to be a reduction of the revenue payable to the Minister as provided for under the Comprehensive Integrated Tax Coordination Agreement. *2012(2nd),c.22,s.9.*

PART 2 — TAX ON PARI-MUTUEL WAGERING

10. Tax on pari-mutuel wagering

- (1) Every person who places a bet at a race meeting with the owner of a pari-mutuel betting system operated in the province, or the owner's agent, shall, at the time of placing the bet, pay to the Minister, for the raising of revenue for provincial purposes, a tax
- (a) in the case of a win, place or show bet, at the rate of 8½ per cent of the amount of money deposited with the owner or the owner's agent; and
 - (b) in the case of a bet made for a feature wager, at the rate of 15½ per cent of the amount of money deposited with the owner or the owner's agent.

Tax on pari-mutuel wagering outside province

- (2) Every person who places a bet with the owner of a pari-mutuel betting system operated in the province, or the owner's agent, on a race that is to be conducted at a track located outside of the province, shall, at the time of placing the bet, pay a tax to the Minister at the rate of 11 per cent of the money deposited with the owner of the pari-mutuel betting system, or the owner's agent, regardless of whether the bet is a win, place or show bet, or a bet made for a feature wager.

Collection of tax

- (3) The tax payable by a person under subsections (1) and (2)
- (a) shall be collected by the owner of the pari-mutuel betting system, or the owner's agent;
 - (b) shall be deducted from the money deposited by that person with the owner or the owner's agent before recording or applying the same in the making of any bet.

Owner is agent of Minister

- (4) Every owner of the pari-mutuel betting system operated in the province is an agent of the Minister for the purpose of collecting the tax imposed by subsections (1) and (2), and payable under subsection (3), and as such shall collect the tax. *2012(2nd),c.22,s.10.*

PART 3 — TAX ON DESIGNATED PROPERTY

11. Tax on designated property acquired in Prince Edward Island

- (1) A purchaser of designated property shall pay to the Minister, at the prescribed time, a tax on the designated property at the rate set out in subsection 15(1).

Statement of purchaser

- (2) The purchaser shall submit with the payment under subsection (1) a statement in the form approved by the Commissioner containing such information pertaining to the purchase of the designated property as required by the Commissioner. *2012(2nd),c.22,s.11.*

12. Tax on designated property brought into Prince Edward Island

- (1) This section applies to a person
- (a) who
 - (i) resides, ordinarily resides or carries on business in Prince Edward Island or enters Prince Edward Island with the intention of residing or carrying on business in Prince Edward Island, or
 - (ii) does not reside, ordinarily reside or carry on business in Prince Edward Island and who
 - (A) owns real property in Prince Edward Island, or
 - (B) leases, as lessee, real property in Prince Edward Island if the term of that lease, including the cumulative total of all options and rights to extend or renew the lease, is at least 5 years; and
 - (b) who brings or sends into Prince Edward Island, or receives delivery in Prince Edward Island of, designated property for consumption or use by any of the following:
 - (i) the person,
 - (ii) another person at the first person's expense,
 - (iii) another person for whom the first person acts as agent,
 - (iv) another person at the expense of a principal for whom the first person acts as agent.

Carrying on business in PEI

- (2) For the purposes of subsection (1), a person is deemed to be carrying on business in Prince Edward Island if an employee or other representative of the person carries on activities in Prince Edward Island on that person's behalf for the purpose of promoting the sale or use of that person's products or services.

Deemed receipt of delivery

- (3) If a person
- (a) is not a person described in clause (1)(a); and
 - (b) brings or sends into Prince Edward Island, or receives delivery in Prince Edward Island of, designated property for consumption or use by another person at the first person's expense,

for the purposes of clause (1)(b), the other person is deemed to have received delivery in Prince Edward Island of the designated property.

Payment of tax on designated property

- (4) Subject to subsection (5), a person to whom this section applies shall pay to the Minister, at the prescribed time, a tax on the designated property at the rate in subsection 15(2).

Exception

- (5) A person is not required to pay tax under this section in respect of a vehicle if a person pays tax under section 13 in respect of the bringing or sending into Prince Edward Island, or the delivery in Prince Edward Island, of the vehicle.

Statement of purchaser

- (6) The purchaser shall submit with the payment under subsection (4) a statement in the form approved by the Commissioner containing such information pertaining to the purchase of the designated property as required by the Commissioner. *2012(2nd),c.22,s.12.*

13. Tax on registration of vehicle brought into Prince Edward Island

- (1) This section applies if
- (a) a person brings or sends into Prince Edward Island, or receives delivery in Prince Edward Island of, a vehicle for consumption or use by any of the following:
 - (i) the person,
 - (ii) another person at the first person's expense,
 - (iii) another person for whom the first person acts as agent,
 - (iv) another person at the expense of a principal for whom the first person acts as agent; and
 - (b) any of the persons referred to in clause (a) registers the vehicle under the *Highway Traffic Act* or *Off-Highway Vehicle Act*.

Registrant to pay tax

- (2) Subject to subsection (3), if this section applies, the person who registers the vehicle shall pay to the Minister, at the prescribed time, a tax on the vehicle at the rate in subsection 15(2).

Exception if tax paid under section 12

- (3) A person is not required to pay tax under this section in respect of a vehicle if a person referred to in clause (1)(a) pays tax under section 12 in respect of the vehicle.

Statement of purchaser

- (4) The purchaser shall submit with the payment under subsection (2) a statement in the form approved by the Commissioner containing such information pertaining to the purchase of the designated property as required by the Commissioner. *2012(2nd),c.22,s.13.*

14. Application of provision and tax where use of designated property changes

- (1) Subsection (2) applies to a person
- (a) who purchases, brings or sends into Prince Edward Island or receives delivery in Prince Edward Island of designated property on which tax is not payable under this Act, other than by reason of an exemption under section 17; and
 - (b) who,
 - (i) if tax is not payable because the person purchased, brought or sent into Prince Edward Island or received delivery in Prince Edward Island of that property for an exempt use, subsequently uses that property or allows that property to be used for a use other than an exempt use, or
 - (ii) in any other case, subsequently uses that property or allows that property to be used for a purpose other than that which allowed the person to be exempt from tax under this Act.

Report of changed use and payment of tax

- (2) A person to whom this subsection applies shall, at the prescribed time,
- (a) report the change in the use of the designated property in writing to the Commissioner in a form and manner satisfactory to the Commissioner;
 - (b) provide any information or records required by the Commissioner; and
 - (c) pay to the Minister a tax at the rate in subsection 15(3).

Application of subsection (4)

- (3) Subsection (4) applies to a person who
- (a) received a refund of tax under this Act in relation to designated property; and
 - (b) subsequently uses that property or allows that property to be used for a purpose other than that which entitled the person to receive a refund of tax under this Act.

Report of changed use and payment of tax

- (4) A person to whom this subsection applies shall, at the prescribed time,
- (a) report the change in the use of the designated property in writing to the Commissioner in a form and manner satisfactory to the Commissioner;
 - (b) provide any information or records required by the Commissioner; and
 - (c) pay to the Minister a tax at the rate in subsection 15(3). *2012(2nd),c.22,s.14.*

15. Rate of tax for section 11

- (1) The rate of tax payable under section 11 is 15 per cent of the taxable value of the designated property.

Rate of tax for sections 12 and 13

- (2) The rate of tax payable under sections 12 and 13 is 15 per cent of the taxable value of the designated property as of the entry date.

Rate of tax for subsections 14(2) and (4)

- (3) The rate of tax payable under subsections 14(2) and (4) is 15 per cent of the taxable value of the designated property at the time the property is used as described in clause 14(1)(b) or (3)(b). *2012(2nd),c.22,s.15; 2016,c.26,s.1.*

16. Taxable value if trade-in allowed on purchase

- (1) If designated property, other than a vehicle, of a purchaser is accepted at the time of sale by the seller on account of the purchase price of the designated property, other than a vehicle, being sold, for the purposes of subclause 1(r)(ii) of the definition of “taxable value”, the taxable value of the designated property purchased by the purchaser and subject to tax under this Act is the amount, if any, by which the fair market value of that designated property exceeds the fair market value, at the time of sale, of the designated property accepted by the seller on account of the purchase price.

Idem, where property is a vehicle

- (2) If designated property, that is a vehicle, of a purchaser is accepted at the time of sale by the seller on account of the purchase price of the designated property, that is a vehicle, being sold, the taxable value for the purposes of subclause 1(r)(iii) of the vehicle purchased by the purchaser and subject to tax under the Act is the amount, if any, by which the taxable value as determined under subclause 1(r)(iii), of that vehicle exceeds the taxable value, as determined under subclause 1(r)(iii), at the time of sale of the vehicle accepted by the seller on account of the purchase price. *2012(2nd),c.22,s.16.*

17. Exempt from tax

A person is exempt from tax under this Part in respect of designated property if

- (a) the person, or another person referred to in section 12 or 13, acquired the designated property at a sale that is
 - (i) a taxable supply by a registrant under Part IX of the federal Act, or
 - (ii) an exempt supply under Part I of Schedule V to the federal Act; or
- (b) the person, or another person referred to in section 12 or 13, imported the designated property from outside Canada. *2012(2nd),c.22,s.17.*

18. Deemed purchase price

If the Commissioner is of the opinion that the fair market value attributed to designated property by the person liable to pay tax under this Part does not represent the fair market value of the designated property,

- (a) the Commissioner may determine the fair market value of the designated property; and
- (b) for the purposes of this Part, the fair market value of the property as determined under clause (a) is deemed to be the fair market value of the designated property. *2012(2nd),c.22,s.18.*

19. Calculation of tax

The tax imposed under this Part must be

- (a) calculated separately on every purchase; and
- (b) calculated to the nearest cent, with 1/2 cent counted as one cent. *2012(2nd),c.22,s.19.*

PART 4 — REGULATIONS

20. General regulation powers

The Lieutenant Governor in Council may make such regulations as the Lieutenant Governor in Council considers necessary

- (a) defining a word or expression used but not defined in this Act;
- (b) providing for exemptions from one or more provisions of this Act, including, without limitation, regulations doing one or more of the following:
 - (i) providing a full or partial exemption from the payment of tax under a provision of this Act,
 - (ii) establishing circumstances in which an exemption applies,
 - (iii) setting conditions of, or limitations on, the application of an exemption;
- (c) providing for a rebate equal to an amount that is all or a portion of the tax payable under subsection 165(2) of the federal Act;
- (d) respecting records to be kept by persons who are required to pay tax under this Act or who are exempt from paying tax under this Act, other than by reason of an exemption under section 17;
- (e) respecting the times at which tax must be paid for the purposes of subsections 11(1), 12(4), 13(2), 14(2) and (4);
- (f) providing for relaxing the strictness of this Act relative to the incidence or collection of the tax thereunder in cases where, without relaxation, great inconvenience or hardship might result. *2012(2nd),c.22,s.20.*

PART 5 — TRANSITIONAL REGULATIONS**21. Transition - regulations**

- (1) Notwithstanding this or any other Act, the Lieutenant Governor in Council may make regulations:
- (a) respecting any matter that the Lieutenant Governor in Council considers is not provided for, or is not sufficiently provided for, in this Act;
 - (b) respecting any matter that the Lieutenant Governor in Council considers appropriate for the purpose of more effectively bringing this Act into operation;
 - (c) respecting any matter that the Lieutenant Governor in Council considers appropriate for the purpose of preventing, minimizing or otherwise addressing any transitional difficulties in bringing this Act into effect, including, without limitation, provisions making an exception to or a modification of a provision in an enactment or providing for the application or continued application of a previous enactment;
 - (d) resolving any errors, inconsistencies or ambiguities in this Act.

Paramountcy

- (2) To the extent of any conflict between a provision of a regulation made under subsection (1) and a provision of another enactment, the provision of the regulation prevails. *2012(2nd),c.22,s.21.*

CONSEQUENTIAL AMENDMENTS**22 to 24, 26 and 27**

(These sections make consequential amendments to other Acts. The amendments have been incorporated into those Acts.)

25. Revenue Administration Act

- (1) **This section amends the *Revenue Administration Act R.S.P.E.I. 1988, Cap. R-13.2.***
 (2) **Clause 1(f)(iii) of the Act is repealed. [Not proc]**

Repeal of Revenue Tax Act**28. Repeal**

The *Revenue Tax Act R.S.P.E.I. 1988, Cap. R-14* is repealed. **[Not proc]** *2012(2nd),c.22,s.28.*

Commencement**29. Commencement**

- (1) Subject to subsection (2), this Act comes into force on April 1, 2013.

Idem

- (2) Subsection 25(2) and section 28 of this Act come into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council. *2012(2nd),c.22,s.29.*