

1991 BILL 43

Third Session, 22nd Legislature, 40 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 43

FUEL TAX AMENDMENT ACT, 1991

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 43

1991

FUEL TAX AMENDMENT ACT, 1991

(Assented to _____, 1991)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1 *The Fuel Tax Act is amended by this Act.*

2 *Section 1(1) is amended*

(a) *by adding the following after clause (b.1):*

(b.2) "aviation fuel" means any hydrocarbon substance that has been refined or produced specifically for use in an aircraft;

(b) *by repealing clauses (h) and (i);*

(c) *in clause (cc) by striking out "or the domestic heating oil allowance, as the case may be";*

(d) *in clause (cc.1) by striking out "fuel oil or liquid petroleum gas" and substituting "fuel oil, liquid petroleum gas, marked fuel, mixed fuel or aviation fuel";*

(e) *in clause (dd) by striking out "fuel oil or liquid petroleum gas" and substituting "fuel oil, liquid petroleum gas, marked fuel, mixed fuel or aviation fuel".*

3 *Section 2 is amended*

(a) *in subsection (1) by striking out "\$0.07" and substituting "\$0.09";*

(b) *in subsection (1.1) by striking out "\$0.05" and substituting "\$0.065";*

(c) *in subsection (1.2) by striking out "fuel oil purchased by*

Explanatory Notes

1 This Bill will amend Chapter F-22.5 of the Statutes of Alberta, 1987.

2 Section 1(1)(h), (i), (cc), (cc.1) and (dd) presently read:

1(1) In this Act

(h) "domestic purposes" means the use in a principal private dwelling;

(i) "domestic heating oil allowance" means the domestic heating oil allowance referred to in section 8;

(cc) "reduced price" means the total amount, including tax, otherwise payable per litre of fuel oil less the amount of tax and the amount set as the farm fuel distribution allowance or the domestic heating oil allowance, as the case may be;

(cc.1) "sell" means to sell or otherwise supply fuel oil or liquid petroleum gas;

(dd) "seller" means a person who sells fuel oil or liquid petroleum gas in Alberta.

3 Section 2(1), (1.1) and (1.2) presently read:

2(1) Subject to this section, a consumer shall pay a tax to the Provincial Treasurer at a rate of \$0.07 per litre on

(a) all fuel oil purchased by him in Alberta, other than for use in a locomotive of which he is the owner or in an aircraft,

(b) subject to clause (d), all fuel oil purchased by him

him for use in an aircraft” *and substituting* “aviation fuel purchased by him”.

4 Section 8 is amended

- (a) *by repealing subsection (2);*
- (b) *in subsection (3) by striking out “subsections (1) and (2)” and substituting “subsection (1)”;*
- (c) *in subsection (6) by striking out “or the domestic heating oil allowance, as the case may be”.*

5 Section 9(1) is repealed and the following is substituted:

9(1) When an agent-dealer sells marked fuel to a person for use in farming operations in Alberta, the price at which the agent-dealer sells that fuel shall be the reduced price.

outside Alberta, brought into Alberta and put, in Alberta, into the fuel system of an internal combustion engine, other than a locomotive or an aircraft, without it first having been sold or resold in Alberta,

(c) all fuel oil consumed within Alberta by a locomotive of which he is the owner,

(d) if the consumer is an interjurisdictional carrier on the prorate system, all fuel oil purchased outside Alberta and consumed within Alberta in a public vehicle of which he is the owner, and

(e) all marked fuel used by him for a purpose other than a purpose referred to in section 5.

(1.1) Subject to this section, a consumer shall pay a tax to the Provincial Treasurer at a rate of \$0.05 per litre on liquid petroleum gas purchased by him for use as motive fuel.

(1.2) Subject to this section, a consumer shall pay a tax to the Provincial Treasurer at a rate of \$0.05 per litre on fuel oil purchased by him for use in an aircraft.

4 Section 8(2), (3) and (6) presently read:

(2) The Provincial Treasurer may provide domestic heating oil allowances in accordance with this Act and the regulations in respect of marked fuel used for domestic purposes in Alberta.

(3) The allowances under subsections (1) and (2) shall be in the amount per litre prescribed in the regulations.

(6) If a consumer used fuel oil in circumstances in which this Act would have permitted the use of marked fuel purchased at the reduced price because marked fuel was not reasonably available in the Provincial Treasurer's opinion, the Provincial Treasurer may, on application by the consumer in accordance with the regulations and in addition to any rebate under section 4, provide to the consumer a grant in the amount per litre prescribed in the regulations as the farm fuel distribution allowance or the domestic heating oil allowance, as the case may be.

5 Section 9(1) presently reads:

9(1) When an agent-dealer sells marked fuel

(a) to a person for use in farming operations in Alberta, or

(b) to a person for domestic purposes in Alberta,

the price at which he sells it shall be the reduced price.

6 *Section 10 is amended*

- (a) *in subsection (1)(b) by striking out “or for domestic purposes in Alberta, as the case may be” and substituting “in Alberta”;*
- (b) *in subsection (2) by striking out “or the domestic heating oil allowance, as the case may be,”;*
- (c) *by repealing subsection (3) and substituting the following:*
 - (3) If an agent-dealer does not contravene subsection (1) in selling marked fuel but the buyer does not use the marked fuel in farming operations in Alberta, the buyer is liable to pay to the Provincial Treasurer an amount equal to the farm fuel distribution allowance on the marked fuel not so used.
- (d) *in subsection (4) by striking out “or for domestic purposes”;*
- (e) *by repealing subsection (5) and substituting the following:*
 - (5) A consumer who buys marked fuel for use in farming operations in Alberta at the reduced price shall not sell or otherwise dispose of that marked fuel to another consumer for use other than for use in farming operations in Alberta.
- (f) *in subsection (6) by striking out “or domestic heating oil allowance, as the case may be,”.*

6 Section 10 presently reads:

10(1) An agent-dealer shall not sell marked fuel at the reduced price to a consumer

(a) unless he has obtained from that consumer the evidence required by the regulations for that purpose, or

(b) when he has obtained the evidence required under clause (a) but knows or ought to know that the evidence is false in a material way or that the marked fuel will not be used in farming operations or for domestic purposes in Alberta, as the case may be.

(2) If an agent-dealer sells marked fuel in contravention of subsection (1), the agent-dealer and the consumer are jointly and severally liable to pay to the Provincial Treasurer an amount equal to the farm fuel distribution allowance or the domestic heating oil allowance, as the case may be, on the marked fuel sold.

(3) If an agent-dealer does not contravene subsection (1) in selling marked fuel but the buyer does not use the marked fuel in farming operations or for domestic purposes in Alberta, the buyer is liable to pay to the Provincial Treasurer an amount equal to the farm fuel distribution allowance or domestic heating oil allowance, as the case may be, on the marked fuel not so used.

(4) If an agent-dealer sells marked fuel for use in farming operations or for domestic purposes in Alberta without contravening subsection (1) but at a price higher than the reduced price, the dealer is liable to pay to the Provincial Treasurer, with respect to each litre sold, an amount equal to the amount by which the actual price exceeds the reduced price.

(5) A consumer who buys marked fuel for use in farming operations or for domestic purposes in Alberta at the reduced price shall not sell or otherwise dispose of that marked fuel to another consumer for use other than for use in farming operations or for domestic purposes, as the case may be, in Alberta.

(6) If a sale or other disposition of marked fuel is made in contravention of subsection (5), the person who sells or disposes of the marked fuel and the buyer or person to whom the marked fuel was delivered, as the case may be, are jointly and severally liable to pay to the Provincial Treasurer an amount equal to the farm fuel distribution allowance or domestic heating oil allowance, as the case may be, for each litre so sold or otherwise disposed of.

7 *Section 10.1 is amended by striking out “or a domestic heating oil allowance” wherever it occurs.*

8 *Section 16 is amended by striking out “, a farm fuel distribution allowance or a domestic heating oil allowance” and substituting “or a farm fuel distribution allowance”.*

9 *Section 25 is amended by adding the following after clause (e):*

(f) enter into the International Fuel Tax Agreement.

10 *The following is added after section 36:*

36.1(1) Subject to subsection (2), any fine imposed in respect of a conviction for an offence under section 6 or 7(1) belongs to the Crown in right of Alberta.

(2) Subject to any administration fee charged by the Government, any fine imposed in respect of a conviction for an offence under section 6 or 7(1) where the offence occurred in

- (a) a city, town or village, other than on a primary highway, enures to the benefit of the city, town or village,
- (b) a county, municipal district, improvement district or special area, other than on a primary highway, enures to the benefit of the county, municipal district, improvement district or special area, and
- (c) an Indian reserve, other than on a primary highway or on a road designated as a secondary road under the *Public Highways Development Act*, enures to the benefit of the band.

(3) For the purposes of subsection (2)(c), “band” and “reserve” mean a band or reserve as defined in the *Indian Act* (Canada).

7 Section 10.1 presently reads:

10.1 No person shall mix marked fuel on which a farm fuel distribution allowance or a domestic heating oil allowance has been provided with any other fuel in respect of which a farm fuel distribution allowance or a domestic heating oil allowance has not been provided.

8 Section 16 presently reads:

16 Taxes, penalties and interest payable under this Act and overpayments of a rebate under section 4, a grant under section 8(6), a farm fuel distribution allowance or a domestic heating oil allowance are recoverable by Her Majesty in right of Alberta in an action in debt.

9 Section 25(e) presently reads:

25 The Provincial Treasurer may

(e) enter into agreements with other jurisdictions with respect to the collection of taxes and penalties.

10 Disposition of certain fines.

11 Section 39(1)(g) is repealed.

12(1) The following provisions are deemed to have come into force on March 23, 1990:

section 2(a);
section 3(c).

(2) The following provisions are deemed to have come into force on April 5, 1991:

section 2(b) and (c);
section 3(a);
section 4;
section 5;
section 6;
section 7;
section 8;
section 11(a).

(3) Section 3(b) is deemed to have come into force on April 7, 1991.

11 Section 39(1)(g) presently reads:

39(1) The Lieutenant Governor in Council may make regulations

(g) respecting the domestic heating oil allowance;

12 Coming into force.