

1996 BILL 20

---

Fourth Session, 23rd Legislature, 45 Elizabeth II

---

THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 20

FUEL TAX AMENDMENT ACT, 1996

---

THE PROVINCIAL TREASURER

---

First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

---

## BILL 20

1996

### FUEL TAX AMENDMENT ACT, 1996

(Assented to \_\_\_\_\_, 1996)

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

Amends SA  
1987 cF-22.5

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

2 *Section 1(1) is amended*

(a) *by repealing clause (d);*

(b) *by repealing clause (o)(i) and substituting the following:*

(i) *liquid petroleum gas, natural gas, ethyl alcohol,  
aviation fuel, marked fuel or any substance  
prescribed in the regulations, or*

(c) *by repealing clause (q) and substituting the following:*

(q) *“interjurisdictional carrier” means a person*

(i) *who owns or operates a public vehicle as  
defined under the *Motor Transport Act* or a fleet  
of public vehicles engaged in interprovincial or  
international travel, and*

(ii) *who is registered under one or more of the  
following:*

(A) *the International Fuel Tax Agreement;*

(B) *the Canadian Agreement on Vehicle  
Registration;*

(C) *the International Registration Plan;*

## Explanatory Notes

1 Amends chapter F-22.5 of the Statutes of Alberta, 1987.

2 Section 1 presently reads in part:

*1(1) In this Act*

- (d) "bulk dealer" means a person who is licensed as a wholesale dealer in fuel under the Fuel Oil Licensing Regulation (Alta. Reg. 234/78);*
- (o) "fuel oil" means any hydrocarbon substance or mixed fuel capable of being used for the generation of power in an internal combustion engine or a turbine engine, but does not include*
  - (i) liquid petroleum gases, natural gas, ethyl alcohol, marked fuel or any substance prescribed in the regulations, or*
  - (ii) in the case of a mixed fuel, the portion of the mixed fuel that is ethyl alcohol or any substance prescribed in the regulations;*
- (q) "interjurisdictional carrier on the prorated system" means a person*
  - (i) who owns or operates a public vehicle as defined under the Motor Transport Act or a fleet of public vehicles engaged in interprovincial or international travel, and*

Conflict with  
IFTA  
agreement

3 *The following is added after section 1:*

**1.1** Where there is a conflict between the International Fuel Tax Agreement and this Act, the International Fuel Tax Agreement applies to the extent of the conflict.

4 *Section 2 is amended*

(a) *by repealing subsection (1)(d) and substituting the following:*

(d) if the consumer is an interjurisdictional carrier, all fuel oil purchased by the consumer outside Alberta and consumed within Alberta in a public vehicle of which he is the owner that meets the specifications of a qualified motor vehicle under the International Fuel Tax Agreement, and

(b) *in subsection (1.1) by adding “or as the energy source for regulating the temperature in a trailer designed for the commercial transportation of goods” after “fuel”.*

(c) *in subsection (3)(c) by striking out “fuel oil or liquid petroleum gas” and substituting “fuel oil, aviation fuel or liquid petroleum gas purchased in or”;*

(d) *in subsection (4) by adding “, aviation fuel” after “oil”.*

(ii) *who is registered under the Canadian Agreement on Vehicle Registration or a similar international agreement to which Alberta is a party;*

(4) *If the Crown in right of Alberta purchases fuel oil or liquid petroleum gas in Alberta, it shall pay an amount equal to the tax it would pay if it were a natural person, which amount shall be treated as an amount of tax paid under this Act.*

**3** Conflict with IFTA agreement.

**4** Section 2 presently reads:

*2(1) Subject to this section, a consumer shall pay a tax to the Provincial Treasurer at a rate of \$0.09 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 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 \$0.065 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 aviation fuel purchased by him.*

*(2) Subject to section 3, the tax is payable at the time and in the manner prescribed in the regulations.*

*(3) No tax is payable under this Act on*

5 *Section 4 is amended*

*(a) by repealing subsection (2) and substituting the following:*

(2) An application for a rebate must be received by the Provincial Treasurer not later than 3 years after the end of the year in which the fuel oil, aviation fuel or liquid petroleum gas to which the application relates was purchased.

*(b) in subsection (3)*

*(i) by adding the following after clause (b):*

(b.1) fuel oil or liquid petroleum gas used as the energy source for regulating the temperature in a trailer designed for the commercial transportation of goods where the trailer is located or operated on a licence of occupation road, a private road on private or Crown land, a highway under construction that is not open to or accessible to the public or any area that is not a highway as defined in the *Highway Traffic Act*;

*(ii) in clause (c) by adding “specialized municipality,” after “municipal district,”;*

*(iii) by repealing clause (e) and substituting the following:*

(e) if the applicant is an interjurisdictional carrier, fuel oil purchased by the applicant in Alberta

- (a) *fuel oil or liquid petroleum gas purchased in Alberta from an agent-collector who delivers it outside Alberta if the fuel oil or liquid petroleum gas is consumed outside Alberta,*
  - (b) *fuel oil or liquid petroleum gas brought into Alberta that is intended to be delivered and consumed outside Alberta if the fuel oil or liquid petroleum gas is actually delivered and consumed outside Alberta, or*
  - (c) *fuel oil or liquid petroleum gas brought into Alberta for its own use by a country or state other than Canada, a political subdivision of that country or state, an agency of that country, state or political subdivision, or an accredited person representing that country, state or political subdivision in Canada.*
- (4) *If the Crown in right of Alberta purchases fuel oil or liquid petroleum gas in Alberta, it shall pay an amount equal to the tax it would pay if it were a natural person, which amount shall be treated as an amount of tax paid under this Act.*

**5** Section 4 presently reads:

*4(1) Subject to subsections (2) and (3), a person who has paid a tax under this Act may apply to the Provincial Treasurer, in accordance with the regulations, for a rebate of the tax paid.*

*(2) An application for a rebate must be made not later than 3 years after the end of the year in which the fuel oil or liquid petroleum gas to which the application relates was purchased.*

*(3) The Provincial Treasurer may, in accordance with the regulations, grant a rebate of the tax paid on the following:*

- (a) fuel oil or liquid petroleum gas used by a commercial fisherman in Alberta in a commercial fishing boat for commercial fishing purposes;*
- (b) fuel oil or liquid petroleum gas used by the applicant in a motor vehicle used for commercial purposes and operated on a licence of occupation road, a private road on private or Crown land, a highway under construction that is not open to or accessible to the public or any area that is not a highway as defined in the Highway Traffic Act;*
- (c) fuel oil or liquid petroleum gas used by an applicant that is a city, town, village, summer village, municipal district, Metis settlement, school board, college established under the Colleges Act or university established under the Universities Act in a motor vehicle used by the applicant and operated on a licence of occupation road, a private road on private or Crown land, a highway under construction that is not open to or accessible to the public or any area that is not a highway as defined in the Highway Traffic Act;*

and consumed outside Alberta in a public vehicle of which he is the owner that meets the specifications of a qualified motor vehicle under the International Fuel Tax Agreement;

(iv) in clause (g) by adding “, aviation fuel” after “oil”;

(v) in clause (i) by adding “or aviation fuel” after “gas”;

(vi) by adding the following after clause (i):

(j) liquid petroleum gas used for purposes other than those described in section 2(1.1);

(k) fuel oil used by a farmer in a farm truck that is a qualified motor vehicle under the International Fuel Tax Agreement if the fuel oil is consumed in Alberta.

(c) by adding the following after subsection (3):

**(3.1)** Effective March 20, 1996 no rebate, except under subsection (3)(b.1), may be granted for fuel oil used as the energy source for regulating the temperature in a trailer designed for the commercial transportation of goods even if an application for the rebate was made before this subsection came into force.

#### 6 Section 5(1)(a) is amended

(a) by repealing subclause (i) and substituting the following:

(i) he is in possession of the marked fuel for commercial purposes for use in an engine of which he is the owner or operator, other than

(A) an engine that drives a motor vehicle, boat or aircraft, or

(B) an engine that is used to regulate the temperature in a trailer designed for the commercial transportation of goods

and then only if the fuel is in the fuel system of the engine or is being transported or kept in storage by him for use in such an engine,

(b) in subclause (ii) by adding “for use” after “purposes”;



- (d) *fuel oil used by the applicant in circumstances in which this Act would have permitted the use of marked fuel, where marked fuel was not reasonably available in the Provincial Treasurer's opinion;*
  - (e) *if the applicant is an interjurisdictional carrier on the prorate system, fuel oil purchased by the applicant in Alberta and consumed outside Alberta in a public vehicle of which he is the owner;*
  - (f) *fuel oil purchased by the applicant from a bulk dealer who delivers it outside Alberta if the fuel oil is consumed outside Alberta;*
  - (g) *fuel oil or liquid petroleum gas purchased in Alberta for its own use by a country or state other than Canada, a political subdivision of that country or state, an agency of that country, state or political subdivision, or an accredited person representing that country, state or political subdivision in Canada;*
  - (h) *fuel oil or liquid petroleum gas used by the applicant for other purposes in accordance with the regulations;*
  - (i) *liquid petroleum gas used for farming operations in Alberta.*
- (4) *Where the Provincial Treasurer refuses in whole or in part an application for a rebate, he shall cause to be given to the applicant a notice of disallowance specifying the amount of the disallowance and the reasons for it.*

**6** Section 5(1)(a) presently reads:

*5(1) No person shall be in possession of marked fuel unless*

- (a) he has been issued a certificate under subsection (2), and*
  - (i) he is in possession of the marked fuel for commercial purposes in an engine of which he is the owner or operator, other than an engine that drives a motor vehicle, boat or aircraft, and then only if the fuel is in the fuel system of the engine or is being transported or kept in storage by him for use in such an engine,*
  - (ii) he is in possession of the marked fuel for commercial purposes in a motor vehicle that is not required to be licensed or registered under any federal or provincial enactment in respect of its operation, and then only if the fuel is in the fuel system of the motor vehicle or is being transported or kept in storage by him for use in such a motor vehicle,*

(c) in subclauses (iii) and (iv) by adding “specialized municipality,” after “municipal district,”;

(d) by repealing subclause (v) and substituting the following:

- (v) he is in possession of the marked fuel for use in farming operations in Alberta carried on by him, and then only if the fuel is
  - (A) in the fuel system of farm machinery of which he is the owner or operator,
  - (B) in the fuel system of a farm truck of which he is the owner or operator, other than a farm truck that is a qualified motor vehicle under the International Fuel Tax Agreement, or
  - (C) being transported or kept in storage by him for use in farming operations in Alberta,

7 Section 7 is repealed and the following is substituted:

Prohibited  
sales

**7(1)** Subject to section 10(5), no person shall sell marked fuel in Alberta unless

- (a) he is a refiner or an agent-dealer, or
- (b) he sells the marked fuel at no gain
  - (i) to a consumer who holds a certificate issued under section 5(2), and
  - (ii) in circumstances in which the consumer cannot reasonably purchase marked fuel from a refiner or an agent-dealer.

**(2)** A person shall not sell marked fuel to a consumer

- (iii) *the person is a city, town, village, summer village, municipal district, Metis settlement, school board, college established under the Colleges Act or university established under the Universities Act and is in possession of the marked fuel for use in an engine of which it is an owner or operator other than an engine that drives a motor vehicle, boat or aircraft, and then only if the fuel is in the fuel system of the engine or is being transported or kept in storage by the person for use in such an engine,*
- (iv) *the person is a city, town, village, summer village, municipal district, Metis settlement, school board, college established under the Colleges Act or university established under the Universities Act and is in possession of the marked fuel for use in a motor vehicle that is not required to be licensed or registered under any federal or provincial enactment in respect of its operation, and then only if the fuel is in the fuel system of the motor vehicle or is being transported or kept in storage for use in such a motor vehicle,*
- (v) *he is in possession of the marked fuel for use in farming operations in Alberta carried on by him, and then only if the fuel is in the fuel system of a farm truck or farm machinery of which he is the owner or operator or is being transported or kept in storage by him for use in farming operations,*
- (vi) *he is in possession of the marked fuel for use for any purpose other than burning it in an internal combustion engine, or*
- (vii) *he is in possession of the marked fuel for a use prescribed by regulation,*

**7** Section 7 presently reads:

*7(1) Subject to section 10(5), no person shall sell marked fuel in Alberta unless he is a refiner or an agent-dealer.*

*(2) An agent-dealer shall not sell marked fuel to a consumer*

- (a) unless he has obtained from the 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 as permitted under section 5.*

*(3) If an agent-dealer sells marked fuel in contravention of subsection (2), the agent-dealer and the consumer are jointly and severally liable to pay the Provincial Treasurer an amount equal to the amount of tax the consumer should have paid under section 2 had the marked fuel been fuel oil.*

- (a) unless he has obtained from the consumer the evidence required by the regulations for that purpose, and
  - (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
    - (i) in the case of a sale by a person described in subsection (1)(a), as permitted under section 5, or
    - (ii) in the case of a sale by a person described in subsection (1)(b), as permitted under section 5(1)(a)(i) and (ii).
- (3) If a person sells marked fuel in contravention of subsection (2), the person and the consumer are jointly and severally liable to pay the Provincial Treasurer an amount equal to the amount of tax the consumer would have been required to pay under section 2 had the marked fuel been fuel oil.

8 *The heading to Part 2 is amended by striking out “, DOMESTIC HEATING OIL ALLOWANCES”.*

9 *Section 8(6) is amended by adding “or purchased in Alberta fuel oil for use in a farm truck that is a qualified motor vehicle under the International Fuel Tax Agreement,” after “opinion,”.*

10 *Section 11 is repealed and the following is substituted:*

Assessment of  
tax to be  
remitted

**11(1)** The Provincial Treasurer may, at any time he considers reasonable, assess a seller for the amount of tax owing that the seller has collected but has not remitted to the Provincial Treasurer by serving a notice of assessment on the seller.

**8** The heading to Part 2 presently reads:

*FARM FUEL DISTRIBUTION ALLOWANCES,  
DOMESTIC HEATING OIL ALLOWANCES*

**9** Section 8(6) presently reads:

*(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.*

**10** Section 11 presently reads:

*11(1) The Provincial Treasurer may assess any amount payable by a seller, agent-dealer or consumer under this Act within 3 years from the day the amount became payable, except that if the person has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed a fraud, in making a return or in supplying any information under this Act or the regulations or in omitting to disclose any information, the Provincial*

(2) Subject to subsections (3) and (4), the Provincial Treasurer may, within 4 years from the end of the calendar year in which tax was to have been collected and remitted, assess a seller for the amount of tax that the seller failed to collect and remit by serving a notice of assessment on the seller.

(3) If the seller

- (a) has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or
- (b) has committed a fraud in making a return or in supplying any information under this Act or the regulations or in omitting to disclose any information,

the Provincial Treasurer may assess the amount of tax owing at any time he considers reasonable.

(4) If the seller has filed a waiver within 4 years of the end of the year in which the tax was to have been collected and remitted and

- (a) the waiver is still in effect, the Provincial Treasurer may assess the amount of tax owing, in accordance with the terms of the waiver, at any time, or
- (b) the waiver has been revoked, the Provincial Treasurer may assess the amount of tax owing, in accordance with the terms of the waiver, within 6 months after the Provincial Treasurer receives a notice of the revocation.

*11 Section 12 is repealed and the following is substituted:*

Assessment of  
amount owing

**12(1)** In this section, “amount owing” by a person means

- (a) if the person is a consumer, the amount of tax that has not been paid by the consumer,
- (b) the amount by which a rebate paid to the person under section 4 exceeds the rebate to which the person was entitled,
- (c) the amount by which a grant paid to the person under section 8(6) exceeds the grant to which the person was entitled,

*Treasurer may assess the amount owing at any time he considers reasonable.*

*(2) Liability for an amount owing under this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.*

*(3) The Provincial Treasurer is not bound by a return or information delivered by or on behalf of any person under this Act and may, notwithstanding a return or information so delivered, or if no return or information has been delivered, assess an amount payable under this Act.*

**11** Section 12 presently reads:

*12(1) The Provincial Treasurer may assess against a seller who fails to collect or remit tax that he is required by this Act to collect and remit a penalty in an amount equal to the amount of tax he failed to collect or remit.*

*(2) No penalty imposed under subsection (1) shall be imposed in respect of tax that should have been collected and remitted earlier than 3 years immediately preceding the day of the assessment under subsection (1), except that if a seller has made a misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed a fraud in making a return or in supplying any information under this Act or the regulations or in omitting to disclose any information, the Provincial Treasurer may impose the penalty provided for in subsection (1) for tax that should have been*

(d) the amount by which a refund paid to the person under the regulations exceeds the refund to which the person was entitled, or

(e) the amount a person is liable for under section 10.

(2) The Provincial Treasurer may, within 4 years from the end of the calendar year in which the amount owing was first owing by a person, assess the person for the amount owing by serving a notice of assessment on the person, but

(a) if the person

(i) has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or

(ii) has committed a fraud in making a return or in supplying any information under this Act or the regulations or in omitting to disclose any information,

the Provincial Treasurer may assess the amount owing at any time he considers reasonable, or

(b) if the person has filed a waiver within 4 years of the end of the year in which the amount was owing, and

(i) the person has not revoked the waiver, the Provincial Treasurer may, in accordance with the terms of the waiver, assess the amount owing at any time, or

(ii) the person has revoked the waiver, the Provincial Treasurer may assess the amount owing, in accordance with the terms of the waiver, within 6 months after the Provincial Treasurer receives a notice of the revocation.

Assessment of  
penalties

**12.1(1)** If an assessment is made against a person under section 11 or 12 and all or a portion of the amount assessed against that person is attributable to

(a) neglect, carelessness or wilful default by or on behalf of that person, or

(b) fraud or evasion committed by or on behalf of that person,

the Provincial Treasurer may, in addition to the amount owing under an assessment under section 11 or 12, assess a



*collected and remitted earlier than 3 years prior to the date of the assessment under subsection (1).*

penalty against the person in the amount of 25% of the amount so attributable by serving a notice of assessment on the person.

(2) Evidence that an assessment of a penalty has been made under subsection (1) is prima facie proof that the amount owing and the penalty under this section are owing to the Crown from the person on whom the notice of assessment under subsection (1) is served in the amounts stated in the notice of assessment.

(3) If a person fails to submit a return as and when required by this Act or the regulations, the Provincial Treasurer may assess a penalty against the person in the amount of \$25 for each day of default by serving a notice of assessment on the person.

(4) If a seller fails to remit tax when required under this Act and the regulations, the Provincial Treasurer may impose a penalty equal to 5% of the deficiency for each month or part of a month between the date the Provincial Treasurer mails a notification that the deficiency is due and the date he receives it.

*12 Section 13 is repealed and the following is substituted:*

Effect of  
assessment

**13(1)** Unless it is varied or vacated on an objection or appeal,

(a) an assessment made under section 11, 12 or 12.1 is deemed to be valid and binding notwithstanding any error, defect or omission in it or in any proceeding under this Act relating to it, and

(b) the amount assessed in an assessment made under section 11, 12 or 12.1 shall, for the purposes of collection and recovery, be deemed to be an amount owing under this Act and to be conclusively established as a debt due to Her Majesty in right of Alberta.

(2) Every person assessed under section 11, 12 or 12.1 shall, within 30 days of the service of the notice of assessment, pay the amount assessed against him whether or not an objection to or appeal from the assessment is outstanding.

(3) Liability for an amount owing under this Act is not affected by the fact that no assessment has been made.

**12** Section 13 presently reads:

*13(1) Repealed 1990 c16 s1.*

*(2) Unless it is varied or vacated on an objection or appeal,*

*(a) an assessment made under section 11 or 12 is deemed to be valid and binding notwithstanding any error, defect or omission in it or in any proceeding under this Act relating to it, and*

*(b) the amount assessed in an assessment made under section 11 or 12 shall, for the purposes of collection and recovery, be deemed to be a tax owing under this Act and to be conclusively established as a debt due to Her Majesty in right of Alberta.*

*(3) Every person assessed under section 11 or 12 shall, within 30 days of the service of the notice of assessment, pay the amount assessed against him whether or not an objection to or appeal from the assessment is outstanding.*

(4) The Provincial Treasurer is not bound by a return or information delivered by or on behalf of any person under this Act and may, notwithstanding a return or information so delivered, or if no return or information has been delivered, assess an amount payable under this Act.

*13 Section 13.1 is repealed.*

*14 Section 14 is repealed and the following is substituted:*

**13** Section 13.1 presently reads:

*13.1(1) In this section, "amount owing" means,*

- (a) in the case of fuel tax, the fuel tax owing to the Crown that has not been paid, and*
- (b) in the case of an allowance under Part 2, the amount owing to the Crown under Part 2 that has not been paid.*

*(2) Where*

- (a) a person owes an amount to the Crown under Part 1 or Part 2, and*
- (b) the Provincial Treasurer is of the opinion that the reason that the amount is owing to the Crown by that person is attributable to*
  - (i) neglect, carelessness or wilful default by or on behalf of that person, or*
  - (ii) fraud or evasion committed by or on behalf of that person,*

*the Provincial Treasurer may determine the amount owing by that person and assess against the person a penalty in the amount of 25% of the amount owing.*

*(3) Any penalty assessed under this section is in addition to a penalty, if any, assessed under section 12.*

*(4) On assessing a penalty under subsection (2), the Provincial Treasurer may demand payment of the amount owing and the amount of the penalty assessed under this section from the person to whom the demand is directed.*

*(5) Evidence that a demand has been made under subsection (4) is prima facie proof that the amount owing and the amount of the penalty assessed under this section are owing to the Crown from the person to whom the demand is directed in the amounts stated in the demand.*

**14** Section 14 presently reads:

Interest

**14(1)** Interest is payable on any amounts owing under this Act in accordance with this section and at the rate and calculated in the manner prescribed by the regulations.

**(2)** Interest is payable on an amount assessed under section 11(1) from the day on which the amount was to be remitted to the Provincial Treasurer until the day on which the amount is received by the Provincial Treasurer.

**(3)** Interest is payable on an amount assessed under section 11(2) from the day on which the assessment was sent until the day on which the amount is received by the Provincial Treasurer.

**(4)** Interest is payable on an amount assessed under section 12 from the day the amount was first owing until the day the Provincial Treasurer receives payment of the amount assessed.

**(5)** Interest is payable on the amount of the penalty unpaid under section 12.1 from the day of sending of the notice of assessment until the day the Provincial Treasurer receives payment of the penalty.

**(6)** For the purposes of subsection (4) of this section and section 12(2), an amount owing is deemed to be first owing,

(a) in the case of fuel tax owing by a consumer, on the day the tax was required to be paid by the consumer,

(b) in the case of an excessive rebate under section 4, an excessive refund under the regulations or an excessive grant under section 8(6), on the day the rebate, refund or grant, as the case may be, was made, and

(c) in the case of a liability under section 10, on the day of the sale or disposition of the marked fuel.

**(7)** In any other case where a person is required to pay an amount to the Provincial Treasurer, interest is payable from the day on which the amount was to be paid to the Provincial Treasurer until the day on which the amount is received by the Provincial Treasurer.

*15 Sections 16.3 and 16.4 are repealed.*

**14 Interest is payable**

- (a) by a person in respect of an amount of tax or penalty that he fails to pay or remit in accordance with this Act and the regulations,*
- (b) by a person who receives a rebate under section 4, in respect of any amount that he was not entitled to receive,*
- (c) by a person who receives a grant under section 8(6), in respect of any amount that he was not entitled to receive, and*
- (d) by an agent-dealer or consumer in respect of an amount he is liable to pay under section 7 or 10,*

*and the interest is payable over the period of time, at the rate and in the manner prescribed in the regulations.*

**15 Sections 16.3 and 16.4 presently read:**

*16.3(1) If a person is liable for the payment of an amount assessed under this Act, in this subsection referred to as the "unpaid amount".*





*the Provincial Treasurer shall not, for the purpose of collecting the unpaid amount,*

- (a) commence legal proceedings in the Court,*
- (b) certify the unpaid amount under section 16.1, or*
- (c) require a person to make a payment under section 16.2,*

*within 90 days after the day on which the notice of assessment is sent.*

*(2) If a person has served a notice of objection under this Act to an assessment of an amount payable under this Act, the Provincial Treasurer shall not, for the purpose of collecting the amount in controversy, take any of the actions described in subsection (1) within 90 days after the day on which the notice in which the Provincial Treasurer has confirmed or varied the assessment is sent to the person.*

*(3) If a person has appealed to the Court from an assessment of an amount payable under this Act, the Provincial Treasurer shall not, for the purpose of collecting the amount in controversy, take any of the actions described in subsection (1) before*

- (a) the day on which the judgment of the Court takes effect,*  
*or*
- (b) the day on which the person discontinues the appeal.*

*whichever is the earlier.*

*(4) Notwithstanding any other provision in this section, if a person*

- (a) has*
  - (i) served a notice of objection under this Act to an assessment, or*
  - (ii) appealed to the Court from the assessment,*
- and*
- (b) agrees in writing with the Provincial Treasurer to delay proceedings on the objection or appeal, as the case may be, until judgment has been given in another action before the Court, the Court of Appeal or the Supreme Court of Canada in which the issue is the same or substantially the same issue as that raised in the objection or appeal of the person.*

*the Provincial Treasurer may take any of the actions described in subsection (1) for the purpose of collecting the amount assessed, or a part of the amount, determined in a manner consistent with the decision or judgment made in the other action, at any time after the Provincial Treasurer notifies the person in writing that*

- (c) the decision has been made by the Court in that action.*



*(d) the decision has been made by the Court of Appeal in that action, or*

*(e) judgment has been delivered by the Supreme Court of Canada in that action,*

*as the case may be.*

*16.4(1) Notwithstanding section 16.3, if*

*(a) the Provincial Treasurer on reasonable grounds is of the opinion that collection of an amount assessed in respect of a person would be jeopardized by a delay in the collection of the amount, and*

*(b) the Provincial Treasurer has, by notice served on the person, so advised the person and directed the person to pay forthwith the amount assessed or any part of the amount,*

*the Provincial Treasurer may forthwith take any of the actions described in section 16.3(1) with respect to that amount or the part of that amount.*

*(2) Where the Provincial Treasurer has under subsection (1) directed a person to forthwith pay the amount assessed or any part of that amount, the person may by an originating notice apply to the Court for an order fixing a day that is not earlier than 14 days nor later than 28 days after the date of the order and a place to hold a hearing for the purposes of determining whether the Provincial Treasurer was justified in taking action under subsection (1).*

*(3) An originating notice commenced under subsection (2)*

*(a) may be returnable on the 3rd day following the day on which it was issued, and*

*(b) must be served on the Deputy Minister of Justice and Deputy Attorney General at least 3 days prior to its being heard by the Court.*

*(4) Except where the Court is of the opinion that circumstances warrant otherwise, an originating notice under this section must be issued within 30 days after the day that the notice given under subsection (1) was served on the person.*

*(5) Where*

*(a) an order is made under subsection (2), and*

*(b) a copy of that order is served on the Deputy Minister of Justice and Deputy Attorney General within 6 days after the day on which it is made,*

*the person may by a notice of motion apply at the time and place set by the Court under subsection (2) to have the Court determine whether the Provincial Treasurer was justified in taking action under subsection (1).*

16 Section 17(1)(a) is amended by striking out “or 12” and substituting “, 12 or 12.1”.

17 Section 34 is repealed and the following is substituted:

Failure to file  
return or  
maintain  
records

**34(1)** A person who fails to submit a return or provide or produce information or a document as and when required by this Act or the regulations is guilty of an offence and is liable to a fine of \$50 for each day of default.

**(2)** A person who fails to maintain records and books of account when required by the Provincial Treasurer to do so under section 25(a) is guilty of an offence and is liable to a fine of \$50 for each day from the day he receives notification of the requirement to the day he complies with the requirement.

18 Sections 35 to 36 are repealed and the following is substituted:

Offences and  
penalties re  
unpaid tax

**35** A consumer who contravenes section 2, 6(1)(b) or (c), 10(5) or 10.1 or who uses marked fuel that he has obtained at the reduced price for purposes other than in farming operations in Alberta is guilty of an offence and is liable

(a) for a first offence, to a fine of not more than \$1000,  
and

*(6) The hearing held pursuant to an application made under subsection (5) may, on the application of the person, be held in private if the person satisfies the Court that the circumstances justify conducting the hearing in private.*

*(7) In determining at the hearing held pursuant to an application made under subsection (5) whether the Provincial Treasurer was justified in taking action under subsection (1), the burden of justifying the action is on the Provincial Treasurer.*

*(8) On conducting a hearing pursuant to an application made under subsection (5) into whether the action of the Provincial Treasurer requiring the person to forthwith pay the amount assessed or any part of that amount was justified, the Court shall determine the matter summarily and may*

*(a) confirm, vary or vacate the decision of the Provincial Treasurer, or*

*(b) make such other order as the Court considers appropriate in the circumstances.*

*(9) The Court shall not award costs in respect of matters coming under this section.*

**16** Section 17(1)(a) presently reads:

*17(1) A person who objects to*

*(a) a notice of assessment under section 11 or 12,*

**17** Section 34 presently reads:

*34 A person who fails to deliver a return or provide or produce information or a document as and when required by this Act or the regulations is guilty of an offence and liable to a fine in an amount determined by the judge for each day of default.*

**18** Sections 35 to 36 presently read:

*35(1) A person who contravenes section 2 or 3 is guilty of an offence and, in addition to any other penalty provided by this Act, is liable to a fine of not more than 300% of the tax required to be paid, collected or remitted, as the case may be, under section 2 or 3.*

*(2) A person who contravenes section 9 or 10(1) or (5) is guilty of an offence and, in addition to any other penalty provided by this Act,*

Offences and  
penalties re  
sellers

- (b) for a subsequent offence, to a fine of not more than \$5000.

**35.1** A seller who contravenes section 3, 6, 7, 9(1) or 10(1) is guilty of an offence and is liable

- (a) for a first offence, to a fine of not more than \$10 000 or to a term of imprisonment of not more than 6 months or to both a fine and imprisonment,
- (b) for a subsequent offence, to a fine of not more than \$25 000 or to a term of imprisonment of not more than one year or to both a fine and imprisonment, and
- (c) in addition to the penalties in clauses (a) and (b), to a penalty of not more than 3 times
  - (i) in the case of an offence under section 3, the tax that should have been collected and remitted by the seller,
  - (ii) in the case of an offence under section 6 or 7, the tax that would have been payable under section 2 had the marked fuel or blended fuel, as the case may be, been fuel oil,
  - (iii) in the case of an offence under section 9(1), the amount by which the actual price exceeds the reduced price, and
  - (iv) in the case of an offence under section 10(1), the farm fuel distribution allowance on the marked fuel sold.

General  
offences and  
penalties

**36** A person who contravenes a provision of this Act or the regulations for which a penalty is not otherwise provided is guilty of an offence and is liable

- (a) for a first offence, to a fine of not more than \$1000 or to a term of imprisonment of not more than one month or to both a fine and imprisonment, and
- (b) for a subsequent offence, to a fine of not more than \$5000 or to a term of imprisonment of not more than 6 months or to both a fine and imprisonment.

*is liable to a fine with respect to each share sold of not more than 300% of the difference between the reduced price and the price at which it was sold or should have been sold.*

*35.1 If a person acting or purporting to act on behalf of a corporation*

*(a) knowingly, or*

*(b) under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act,*

*makes or participates in, assents to or acquiesces in the making of a false statement or omission in a return, application, certificate, statement or answer filed or made as required by or under this Act or a regulation, as a result of which the tax or refund that would have been payable by or to the corporation, if the tax or refund had been assessed or determined on the basis of the information provided in the return, application, certificate, statement or answer, is less or more, as the case may be, than the tax or refund payable by or to the corporation, the corporation is guilty of an offence.*

*35.2(1) A corporation that wilfully evades or attempts to evade payment of tax payable by it is guilty of an offence.*

*(2) A corporation that wilfully claims or attempts to claim a refund greater than that to which it is entitled is guilty of an offence.*

*(3) Where a corporation is guilty of an offence under subsection (1), it is liable to a fine of not more than 300% of the amount of tax sought to be evaded.*

*(4) Where a corporation is guilty of an offence under subsection (2), it is liable to a fine of not more than 300% of the amount that is the difference between the amount of the refund claimed and the amount of the refund to which it is entitled.*

*35.3(1) An individual who*

*(a) makes or participates in, assents to or acquiesces in the making of false or deceptive statements in a return, certificate, statement or answer filed or made as required by or under this Act or a regulation,*

*(b) destroys, alters, mutilates, secretes or otherwise disposes of the records or books of account of a corporation,*

*(c) makes or assents to or acquiesces in the making of false or deceptive entries or omits or assents to or acquiesces in the omitting to enter a material particular in records or books of account of a corporation,*

*(d) wilfully in any manner evades or attempts to evade compliance with this Act or payment of taxes imposed by this Act, or*

*19 Section 36.1 is amended*

*(a) in subsections (1) and (2) by adding “5,” after “section”;*



*(e) conspires with any person to commit an offence described in clauses (a) to (d)*

*and thereby enables or assists or attempts to enable or assist or causes or could cause*

*(f) a corporation to evade or attempt to evade payment of tax payable by it, or*

*(g) a corporation to claim or attempt to claim a refund greater than that to which it is entitled*

*is guilty of an offence.*

*(2) Where, with respect to a corporation referred to in subsection (1)(f), an individual is guilty of an offence under subsection (1), that individual is liable*

*(a) to a fine of not more than 300% of the amount of tax sought to be evaded, or*

*(b) to a fine referred to in clause (a) and to imprisonment for a term not exceeding 2 years.*

*(3) Where, with respect to a corporation referred to in subsection (1)(g), an individual is guilty of an offence under subsection (1), that individual is liable*

*(a) to a fine of not more than 300% of the amount that is the difference between the amount of the refund claimed and the amount of the refund to which the corporation is entitled, or*

*(b) to a fine referred to in clause (a) and to imprisonment for a term not exceeding 2 years.*

*35.4 If a corporation is guilty of an offence under this Act or the regulations, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted.*

*36 A person who contravenes a provision of this Act or the regulations for which a penalty is not otherwise provided is guilty of an offence and is liable*

*(a) for a first offence, to a fine of not more than \$1000,*

*(b) for a 2nd offence, to a fine of not more than \$2500, and*

*(c) for a 3rd or subsequent offence, to a fine of not more than \$5000.*

**19** Section 36.1 presently reads in part:

*(b) in subsection (2)(b) by adding “, specialized municipality” after “improvement district” wherever it occurs.*

*20 Section 39(1) is amended by adding the following after clause (w.2):*

*(w.3) respecting the form and contents of waivers under sections 11 and 12;*

*21 Unless the time period for the assessing of an amount owing or the assessing of a penalty under section 11, 12 or 13.1 of the Fuel Tax Act as it read immediately before the coming into force of this section has expired, the time periods for the serving of a notice of assessment under sections 11, 12 and 12.1 of the Fuel Tax Act as enacted by this Act apply.*

*22 Section 2(a) comes into force on Proclamation.*

*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 municipal district, improvement district or special area, other than on a primary highway, enures to the benefit of the municipal district, improvement district or special area, and*

**20** Regulation.

**21** Transitional.

**22** Coming into force.