

*Bill 21*  
*Mr. Rodney*

## **BILL 21**

2005

### **HOTEL ROOM TAX (TOURISM LEVY) AMENDMENT ACT, 2005**

*(Assented to , 2005)*

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

#### **Amends RSA 2000 cH-13**

**1 The *Hotel Room Tax Act* is amended by this Act.**

**2 The title and chapter number of the Act are repealed and the following is substituted:**

**TOURISM LEVY ACT**  
Chapter T-5.5

**3 Section 1 is amended**

**(a) by renumbering it as section 1(1);**

**(b) in subsection (1)**

**(i) in clause (a)**

**(A) by striking out “a consideration” and substituting  
“consideration”;**

**(B) by adding “bed and breakfast,” after “boarding  
house,”;**

**(C) by adding** “in Alberta, including the right to use lodging acquired with the purchase of a prepaid vacation package,” **after** “similar establishment”;

**(D) in subclause (ii) by adding** “subject to subsection (2),” **before** “lodging”;

**(ii) by adding the following after clause (e):**

(e.1) “establishment” means each location where lodging is provided;

(e.2) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;

**(iii) in clause (f) by adding** “, except in sections 22(1)(b) and (2)(b) and 37,” **after** “means”;

**(iv) by repealing clause (g) and substituting the following:**

(g) “operator” means a person who sells, offers for sale or otherwise provides accommodation in Alberta;

**(v) by adding the following after clause (h):**

(h.1) “prepaid vacation package” means any transaction whereby an operator agrees to sell or otherwise provide accommodation to a purchaser at a future date or dates where the purchaser does not acquire a fee simple interest in real property;

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

(i) “purchase price” means the consideration that is given for accommodation, except that

(i) if the accommodation acquired consists of lodging together with one or more meals, transportation or other goods or services, the purchase price is the consideration that is, in the Minister’s opinion, reasonably attributable to the lodging alone;

- (ii) if any portion of the consideration given for accommodation is other than money, the purchase price is the price
  - (A) of similar accommodation rented or available for rent to another person by the same operator on the day or days the purchaser occupies the accommodation, or
  - (B) that is, in the Minister's opinion, reasonably attributable to the accommodation;
- (iii) if the accommodation acquired is in respect of a prepaid vacation package under which the purchaser acquires the right to use the accommodation during intervals specified in the prepaid vacation package contract, the purchase price includes the consideration that is given for any initial or ongoing maintenance fees in respect of the accommodation;

**(vii) by repealing clause (j) and substituting the following:**

- (j) "purchaser" means a person who acquires accommodation for the purchaser's own use or for use by another, and includes a contractor referred to in section 2(1.1);
- (k) "responsible representative" means a trustee in bankruptcy, assignee, liquidator, administrator, receiver, receiver-manager or any other similar person administering, winding up, controlling or otherwise dealing with a property or business of an operator.

**(c) by adding the following after subsection (1):**

- (2) Accommodation includes lodging in an establishment referred to in subsection (1)(a)(ii) during any period when more than 3 bedrooms in the establishment are rented.

**4 Section 2 is amended**

- (a) by repealing subsections (1), (2) and (3) and substituting the following:**

**Tourism levy on purchaser**

**2(1)** Subject to this section, a purchaser shall pay a tourism levy to the Minister at the rate of

- (a) 5% of the purchase price for any accommodation purchased before April 1, 2005, and
- (b) 4% of the purchase price for any accommodation purchased after March 31, 2005.

**(1.1)** Where a room is occupied by a person (in this subsection referred to as the “contractor”) performing services for an operator who provides the room free of charge to the contractor, the contractor shall pay a tourism levy at the applicable rate specified in subsection (1) based on the purchase price

- (a) of a similar room rented or available for rent to another person by the operator on the day or days the contractor occupies the room, or
- (b) that is, in the Minister’s opinion, attributable to the room.

**(2)** An operator shall, as an agent of the Minister for the collection of a tourism levy, collect the tourism levy payable under this Act from the purchaser when the purchase is made or, in the case of ongoing maintenance fees referred to in section 1(1)(i)(iii), when the maintenance fees are paid.

**(2.1)** If the Crown in right of Alberta is a purchaser, it shall pay an amount equal to the tourism levy it would pay if it were a natural person.

**(3)** For the purposes of this Act, if an operator does not collect a tourism levy pursuant to subsection (2), the operator is nevertheless deemed to have collected the tourism levy.

- (b) in subsection (4) by striking out “tax” and substituting “tourism levy”;**
- (c) by repealing subsection (4).**

**5 The following is added after section 2:**

**Registration required**

**2.1(1)** No person shall sell, offer for sale or otherwise provide accommodation in Alberta unless the person is registered under this section.

(2) If a person sells, offers for sale or otherwise provides accommodation in respect of more than one establishment, the person must be registered in respect of each establishment.

(3) An application for registration must be made in accordance with the regulations.

(4) The Minister may refuse to register a person or may suspend or cancel the registration of a person who, in the opinion of the Minister,

(a) has contravened this Act or a regulation under this Act,  
or

(b) has any director, officer or employee who has contravened this Act or a regulation under this Act.

(5) The Minister may refuse to register a person who is not dealing at arm's length with a person whose registration has been suspended or cancelled or whose application for registration has been refused.

(6) If the Minister refuses to register a person or suspends or cancels a person's registration, the Minister shall give to the person a notice of refusal, suspension or cancellation specifying the reason for the refusal, suspension or cancellation.

(7) No person whose registration has been suspended or cancelled shall sell, offer for sale or otherwise provide accommodation in the establishment to which the registration relates until the suspension has ended or the registration has been reinstated.

**Registration re transitional**

**2.2** An operator who, on the coming into force of this section,

- (a) has been issued a Business Identification Number in respect of an establishment for the purposes of this Act by the Department of Finance, and
- (b) is required to file a return for that establishment

is deemed to be registered under section 2.1 in respect of that establishment.

**Ceasing to carry on business**

**2.3** An operator shall immediately notify the Minister in writing if the operator ceases to sell, offer for sale or otherwise provide accommodation in an establishment.

**6 Section 3 is repealed and the following is substituted:**

**Remitting tourism levy**

**3** An operator who collects, or is deemed to have collected, a tourism levy payable under section 2 shall remit it to the Minister in the manner and at the times prescribed in the regulations.

**7 Section 4 is repealed and the following is substituted:**

**Special account**

**4** The Minister may require an operator who collects a tourism levy under this Act to deposit the amount collected into an account in the name of the Minister or an account in trust for the Minister at a financial institution specified by the Minister.

**8 Section 5 is amended**

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

**Assessment of tourism levy**

**5(1)** The Minister may

- (a) assess any tourism levy payable by a purchaser under this Act within 4 years from the day the tourism levy became payable, and

- (b) assess interest and penalties in addition to the tourism levy payable.

**(b) by adding the following after subsection (1):**

**(1.1)** The Minister may

- (a) assess any tourism levy required to be remitted by an operator under this Act within 4 years from the day the tourism levy was required to be remitted, and
- (b) assess interest and penalties in addition to the tourism levy required to be remitted.

**(1.2)** Notwithstanding subsections (1) and (1.1), if a purchaser or an operator

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

the Minister may assess any tourism levy payable or required to be remitted and assess interest and penalties at any time the Minister considers reasonable.

**(c) in subsection (2) by striking out “tax” and substituting “a tourism levy”;**

**(d) in subsection (3)**

- (i) by striking out “Provincial Treasurer” and substituting “Minister”;**
- (ii) by striking out “tax” and substituting “tourism levy”.**

**9 Section 6 is repealed.**

**10 The following is added before section 7:**

**Late filing penalty**

**6.1** If a person fails to file a return as and when required by this Act or the regulations, the Minister may, by serving a notice of assessment on the person, assess against the person a penalty that is equal to the greater of

- (a) the amount of unpaid tourism levy as at the required filing date, and
- (b) \$25 for each day of default

to a maximum of \$1000.

**11 Section 7 is amended**

**(a) in subsection (1)**

**(i) in clause (a) by striking out “or 6” and substituting “, 6.1, 8, 14(3) or 14.1(3)”;**

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

- (b) the amount assessed in an assessment made under section 5, 6.1, 8, 14(3) or 14.1(3) is, for the purposes of collection and recovery, deemed to be an amount owing under this Act and to be conclusively established as a debt due to the Crown in right of Alberta.

**(b) in subsection (2) by striking out “or 6” and substituting “, 6.1, 8, 14(3) or 14.1(3)”.**

**12 Section 8 is amended**

**(a) in subsection (1)**

**(i) by adding “in right of Alberta” after “Crown” wherever it occurs;**



- (ii) **by striking out** “Provincial Treasurer” **wherever it occurs and substituting** “Minister”;
- (b) **in subsection (2) by striking out** “Provincial Treasurer” **and substituting** “Minister”;
- (c) **in subsection (3) by adding** “in right of Alberta” **after** “Crown”.

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

**Payment by third party**

**10(1)** If the Minister has knowledge or suspects that a person is or will be, within one year, liable to make any payment to a person who owes an amount under this Act (in this section referred to as the “debtor”), the Minister may, by written notice, require the person to pay the money otherwise payable to the debtor in whole or in part to the Minister on account of the amount owing by the debtor under this Act.

**(2)** Without limiting the generality of subsection (1), if the Minister has knowledge or suspects that within 90 days

- (a) a bank, credit union, trust corporation, loan corporation or other similar person (in this section referred to as the “institution”) will lend or advance money to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by, a debtor who is indebted to the institution and who has granted security in respect of the indebtedness, or
- (b) a person other than an institution will lend or advance money to, or make a payment on behalf of, a debtor who the Minister knows or suspects
  - (i) is employed by, or is engaged in providing services or property to, that person or was or will be, within 90 days, so employed or engaged, or
  - (ii) if that person is a corporation, is not dealing at arm’s length with that person,

the Minister may, by written notice, require the institution or person, as the case may be, to pay in whole or in part to the Minister on account of the amount owing by the debtor under this Act the money that would otherwise be so lent, advanced or paid, and any money so paid to the Minister is deemed to have been lent, advanced or paid, as the case may be, to the debtor.

(3) The receipt of the Minister for money paid under this section is a good and sufficient discharge of the amount owing by the debtor to the extent of that payment.

(4) A person who, after receiving a notice under subsection (1), discharges any liability to the debtor without complying with a requirement under this section is liable to pay to the Crown in right of Alberta the lesser of

- (a) an amount equal to the liability discharged, and
- (b) the amount that the person was required under this section to pay to the Minister.

(5) An institution or other person that, after receiving a notice under subsection (2), fails to comply with a requirement under this section with respect to money to be lent, advanced or paid is liable to pay to the Crown in right of Alberta an amount equal to the lesser of

- (a) the total amount of money so lent, advanced or paid, and
- (b) the amount that the institution or person was required under this section to pay to the Minister.

(6) If a person who is or is about to become liable to make a payment to, lend money to or make a payment on behalf of a debtor carries on business under a name or style other than the person's own name, the notice under subsection (1) or (2) may be addressed to the name or style under which the person carries on business and, in the case of personal service, is deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(7) If the persons who are or are about to become liable to make a payment to, lend money to or make a payment on behalf of a debtor carry on business in partnership, the notice under

subsection (1) or (2) may be addressed to the partnership name and, in the case of personal service, is deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

**14 Sections 11 and 12 are repealed.**

**15 Section 13 is amended**

- (a) in clause (a) by striking out “tax” and substituting “tourism levy”;**
- (b) by repealing clause (b) and substituting the following:**
  - (b) by a purchaser in respect of an amount of tourism levy that is assessed against the purchaser in accordance with this Act and the regulations and that the purchaser fails to pay in accordance with this Act and the regulations, and

**16 The following is added after section 13:**

**Waiver or cancellation of penalties or interest**

**13.1** Notwithstanding the *Financial Administration Act*, the Minister may at any time waive or cancel the imposition of or liability for any penalty or interest imposed or payable under this Act.

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

**Responsible representative**

**14(1)** For the purposes of this Act, where a person is a responsible representative of an operator at any time,

- (a) the responsible representative is jointly and severally liable with the operator

- (i) to pay each amount that is payable under this Act by the operator at or before that time and that remains unpaid, to the extent that the responsible representative is at that time in possession or control, in the capacity of responsible representative, of property that belongs or belonged to, or that is or was held for the benefit of, the operator, and
- (ii) to perform any obligation or duty imposed under this Act on the operator at or before that time and that remains outstanding, to the extent that the obligation or duty can reasonably be considered to relate to the responsibilities of the responsible representative acting in that capacity,

and

- (b) any action or proceeding in respect of the operator taken under this Act at or after that time by the Minister may be taken in the name of the responsible representative acting in that capacity and, when taken, has the same effect as if it were taken directly against the operator and, if the operator is no longer an operator, as if the operator continued to be an operator.

(2) A responsible representative shall, before distributing any property over which the responsible representative has control in the capacity of responsible representative, obtain a certificate from the Minister certifying that all amounts

- (a) for which the operator is liable under this Act up to the date of the certificate, and
- (b) for the payment of which the responsible representative is or can reasonably be expected to become liable in the capacity of responsible representative

have been paid or that security for the payment of the amounts has been accepted by the Minister.

(3) If a responsible representative distributes property over which the responsible representative has control in the capacity of responsible representative without obtaining a certificate under subsection (2) in respect of the amounts referred to in that

subsection, the responsible representative is personally liable for the payment of those amounts to the extent of the value of the property distributed, and the Minister may assess the responsible representative for the amounts in the same manner and with the same effect as if it were an assessment under this Act of the operator for whose property or business the responsible representative is responsible.

(4) For the purposes of subsections (2) and (3), an appropriation by a responsible representative of an operator of property in the possession or control of the responsible representative acting in that capacity is deemed to be a distribution of property to a person.

#### **Liability in respect of transfers by insolvent operator**

**14.1(1)** If property is transferred at any time by an operator to a person with whom the operator does not deal at arm's length at that time and the operator is insolvent, or becomes insolvent because of the transfer or because of the transfer and one or more other transactions, the person is jointly and severally liable with the operator to pay the liability under this Act of the operator equal to the amount, if any, by which the fair market value of the property at that time exceeds the fair market value at that time of the consideration given for the property, but nothing in this subsection limits the liability of the operator under any other provision of this Act.

(2) If

- (a) property is transferred at any time from a person (in this subsection referred to as the "transferor") to another person (in this subsection referred to as the "transferee") with whom the transferor does not deal at arm's length,
- (b) the transferor is liable because of subsection (1) or this subsection to pay an amount of the liability under this Act of another person (in this subsection referred to as the "debtor") under this Act, and
- (c) it can reasonably be considered that one of the reasons for the transfer would be, but for this subsection, to prevent the enforcement of this section,

the transferee is jointly and severally liable with the transferor and the debtor to pay an amount of the debtor's liability under this Act equal to the lesser of the amount of the liability that the transferor was liable to pay at that time and the amount, if any, by which the fair market value of the property at that time exceeded the fair market value at that time of the consideration given for the property, but nothing in this subsection limits the liability of the debtor or the transferor under any other provision of this Act.

(3) The Minister may at any time assess a person in respect of any amount payable because of this section.

(4) Where a person has become jointly and severally liable with an operator under this section in respect of part or all of a liability under this Act of the operator,

- (a) a payment by the person on account of that person's liability discharges the joint liability to the extent of the payment, but
- (b) a payment by the operator on account of that operator's liability discharges the person's liability only to the extent that the payment operates to reduce the operator's liability to an amount less than the amount in respect of

which the person is, by this section, made jointly and severally liable.

#### **Liability of directors for failure to remit**

**14.2(1)** Where an operator that is a corporation has failed to remit a tourism levy as required by section 3, the directors of the corporation at the time the corporation was required to remit the tourism levy are jointly and severally liable, together with the corporation, to pay that tourism levy and any interest or penalties relating to it.

(2) A director is not liable under subsection (1) unless

- (a) a certificate for the amount of the corporation's liability referred to in subsection (1) has been filed in the Court under section 9(2) and execution for that amount has been returned unsatisfied in whole or in part,

- (b) the corporation has commenced liquidation or dissolution proceedings or has been dissolved and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within 6 months after the earlier of the date of commencement of the proceedings and the date of dissolution,
- (c) the corporation has made an assignment or a receiving order has been made against it under the *Bankruptcy and Insolvency Act* (Canada) and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within 6 months after the date of the assignment or receiving order, or
- (d) a compromise or arrangement has been proposed under the *Companies' Creditors Arrangement Act* (Canada) in respect of the corporation.

(3) No action or proceedings to recover any amount payable by a director of a corporation under subsection (1) may be commenced more than 2 years after the director last ceased to be a director of that corporation.

(4) Where an execution of the amount referred to in subsection (2)(a) has been returned unsatisfied in whole or in part, the

amount recoverable from a director is the amount remaining unsatisfied.

(5) Where a director pays an amount in respect of a corporation's liability referred to in subsection (1) that is proved in liquidation, dissolution or bankruptcy proceedings, the director is entitled to any preference that the Crown in right of Alberta would have been entitled to had that amount not been so paid, and where a certificate that relates to that amount has been filed, the director is entitled to an assignment of the certificate to the extent of the director's payment, which assignment the Minister is empowered to make.

(6) A director who has satisfied a claim under this section is entitled to a contribution from the other directors who were liable for the claim pursuant to this section.

**18 Section 15 is repealed and the following is substituted:**

**Amounts recoverable as debts**

**15** Tourism levies, penalties and interest payable under this Act are recoverable by the Crown in right of Alberta in an action in debt.

**19 Section 16 is amended**

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

**Notice of objection**

**16(1)** A person who objects to a notice of assessment under section 5, 6.1, 8, 14(3) or 14.1(3) may, within 90 days after the day of mailing of the notice, serve on the Minister a notice of objection in the prescribed form setting out the reasons for the objection and the relevant facts.

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

(2) A notice of objection under this section shall be served by being sent by registered letter addressed to the Minister.

- (c) **in subsection (3) by striking out “Provincial Treasurer” and substituting “Minister”;**

- (d) **by repealing subsection (4) and substituting the following:**

(4) On receipt of a notice of objection, the Minister shall with all due dispatch reconsider the action or decision taken by the Minister and shall

- (a) vacate, confirm or vary that action or decision and notify the objector of the Minister’s decision in writing, or
- (b) serve a new notice of assessment.

**20 The following is added after section 16:**



### **Extension of time by Minister**

**16.1(1)** Where no notice of objection has been served under section 16(1) within the time limited by that provision for doing so, the person may apply to the Minister for an extension of the time for serving the notice of objection.

(2) An application made under subsection (1) shall set out the reasons why the notice of objection was not served within the time otherwise limited by this Act for doing so.

(3) An application made under subsection (1) shall be served by being sent by registered letter addressed to the Minister and accompanied with a copy of the notice of objection.

(4) The Minister may accept an application under this section notwithstanding that it was not served in the manner required by subsection (3).

(5) On receipt of an application made under subsection (1), the Minister shall with all due dispatch consider the application and grant or refuse it and notify the person of the decision in writing.

(6) Where an application made under subsection (1) is granted, the notice of objection is deemed to have been served or made on the day the decision of the Minister is provided to the person.

(7) No application shall be granted under this section unless

- (a) the application is made within one year after the expiration of the time otherwise limited by this Act for serving a notice of objection, and
- (b) the person demonstrates that
  - (i) within the time otherwise limited by this Act for serving the notice, the person
    - (A) was unable to act or to instruct another to act in the person's name, or
    - (B) intended in good faith to object to the assessment,

- (ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and
- (iii) the application was made as soon as circumstances permitted.

**Extension of time by Court**

**16.2(1)** A person who has made an application under section 16.1 may apply to the Court to have the application granted after

- (a) the Minister has refused the application, or
- (b) 90 days has elapsed after service of the application under section 16.1 and the Minister has not notified the person of the Minister's decision,

but no application under this section may be made after the expiration of 90 days after the day on which notification of the decision was mailed to the person or otherwise communicated in writing to the person.

**(2)** An application under subsection (1) shall be made by serving on the Minister by registered letter a copy of the

documents referred to in section 16.1(3) and the notification, if any, referred to in section 16.1(5) and by filing a copy of each with the clerk of the Court.

**(3)** The Court may grant or dismiss an application made under subsection (1) and, in granting an application, may impose such terms as it considers just or order that the notice of objection is deemed to have been served on the date of its order.

**(4)** No application shall be granted under this section unless

- (a) the application was made under section 16.1(1) within one year after the expiration of the time otherwise limited by this Act for serving a notice of objection, and
- (b) the person demonstrates that
  - (i) within the time otherwise limited by this Act for serving the notice, the person

- (A) was unable to act or to instruct another to act in the person's name, or
- (B) intended in good faith to object to the assessment,
- (ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and
- (iii) the application was made under section 16.1(1) as soon as circumstances permitted.

## **21 Section 17 is amended**

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

### **Notice of appeal**

**17(1)** A person who has served a notice of objection under section 16(1) may appeal to the Court to have the action or decision taken by the Minister vacated or varied

- (a) where the Minister has, under section 16(4), confirmed or varied the action or decision taken by the Minister or served a new notice of assessment, or
- (b) after 90 days has elapsed after service of the notice of objection and the Minister has not acted under section 16(4),

but no appeal under this section may be instituted after the expiration of 90 days from the day a notification under section 16(4) was mailed to the objector or otherwise communicated in writing to the objector.

- (b) in subsection (2) by striking out "Provincial Treasurer" wherever it occurs and substituting "Minister";**
- (c) by repealing subsection (3) and substituting the following:**

**(3)** A notice of appeal shall be served on the Minister by being sent by registered letter addressed to the Minister.

**22 Section 19 is amended**

**(a) in subsection (3)**

- (i) by adding “**, in an appeal of a decision with respect to a notice of objection filed in respect of an objection under section 16(1)(a),” **after** “The Court may”;
- (ii) in clause (b)(iv) by striking out “Provincial Treasurer” and substituting “Minister”;**

**(b) by adding the following after subsection (3):**

**(3.1)** The Court may, in an appeal of a decision with respect to a notice of objection filed in respect of an objection under section 16(1)(b),

- (a) dismiss the appeal, or
- (b) allow the appeal and direct, as the case may be, that subject to the terms or conditions the Court considers appropriate,
  - (i) registration be granted,
  - (ii) the suspension be removed, or
  - (iii) the registration be reinstated.

**(c) by repealing subsection (4) and substituting the following:**

**(4)** The Court may, in delivering judgment on an appeal, order payment or repayment of a tourism levy, interest, penalties or costs by the appellant or the Minister.

**23 Section 21 is amended by adding “under section 5, 6.1, 8, 14(3) or 14.1(3)” after “assessment”.**

**24 The following is added after section 21:**

**Documents deemed signed**

**21.1** A document purporting to have been executed under or in the course of the administration or enforcement of this Act over the name in writing of the Minister or an official authorized by the Minister to exercise powers or perform duties of the Minister under this Act is deemed to have been signed, made and issued by the Minister or the official unless called into question by the Minister or by a person acting for the Minister or for the Crown in right of Alberta.

**25 Section 22 is amended**

**(a) in subsections (1) and (2)**

- (i) by striking out “Provincial Treasurer” and substituting “Minister”;**
- (ii) by striking out “or certified mail”;**

**(b) in subsection (3)**

- (i) by striking out “Provincial Treasurer” and substituting “Minister”;**
- (ii) by striking out “or certified mail”;**
- (iii) by striking out “tax” and substituting “tourism levy”.**

**26 Section 26 is amended**

- (a) in subsection (1) by striking out “Treasury Department” and substituting “Department administered by the Minister”;**
- (b) in subsection (2) by striking out “Provincial Treasurer” wherever it occurs and substituting “Minister”.**

**27 The following is added after section 26:**

### **Communication of information**

**26.1(1)** Information collected under this Act may be disclosed to a person employed or engaged by the Government of Canada or the government of a province or territory in the administration or enforcement of a taxation statute of Canada or of that province or territory if the information is used solely for the purposes of administering or enforcing the taxation statute and the Government of Canada or government of that province or territory supplies the Government of Alberta with similar information under an agreement or arrangement.

(2) A person who receives information holds that information subject to the same prohibitions and restrictions respecting communication of the information that applied to the person from whom the information was obtained.

(3) Notwithstanding subsection (2), a person may communicate information to any person engaged or employed in the investigation or prosecution of offences under the *Criminal Code* (Canada) solely for the purpose of investigating and prosecuting an offence.

(4) Nothing in this section authorizes the disclosure of personal information, as defined in the *Freedom of Information and Protection of Privacy Act*, about a purchaser.

### **28 Section 29 is amended**

#### **(a) in subsection (1)**

(i) **by striking out** “Provincial Treasurer” **wherever it occurs and substituting** “Minister”;

(ii) **by striking out** “Her Majesty” **and substituting** “the Crown”;

(b) **in subsection (2) by striking out** “Provincial Treasurer” **wherever it occurs and substituting** “Minister”.

### **29 Section 30(1) is amended**

- (a) by striking out “Provincial Treasurer” wherever it occurs and substituting “Minister”;**
- (b) in clause (a)(i) by striking out “, certified”;**
- (c) in clause (c)(ii) by striking out “of Revenue”.**

**30 Section 31 is amended by striking out “tax” and substituting “tourism levy”.**

**31 Section 32 is amended by striking out “deliver” and substituting “file”.**

**32 Section 33 is amended by striking out “tax” and substituting “tourism levy”.**

**33 Section 34 is amended by striking out “tax” wherever it occurs and substituting “tourism levy”.**

**34 Section 35 is amended**

- (a) in subsection (1) by striking out “tax” and substituting “a tourism levy”;**
- (b) in subsection (3) by striking out “tax” and substituting “the tourism levy”.**

**35 Section 36 is amended**

- (a) in subsection (1)**
  - (i) in clause (d) by striking out “taxes” and substituting “tourism levies”;**

(ii) in clause (f) by striking out “tax” and substituting “a tourism levy”;

(b) in subsection (2)(a) by striking out “tax” and substituting “the tourism levy”.

**36 Section 39.1 is amended by adding “in right of Alberta” after “Crown”.**

**37 Section 40(1) is amended**

(a) in clause (a) by striking out “remission of tax” and substituting “remittance of tourism levies”;

(b) in clause (b) by striking out “tax” and substituting “tourism levy”;

(c) by repealing clauses (c), (e) and (g);

(d) in clause (h)

(i) by striking out “requiring” and substituting “respecting”;

(ii) by striking out “tax” and substituting “tourism levy”;

(e) in clause (i) by striking out “tax” and substituting “tourism levies”;

(f) in clause (j) by striking out “Provincial Treasurer” and substituting “Minister”;

(g) by adding the following after clause (m):

(n) respecting the exemption of any person or class of persons from payment of a tourism levy.

**38 In the following provisions, “Provincial Treasurer” is struck out wherever it occurs and “Minister” is substituted:**



section 9(1);  
section 18(1);  
section 23;  
section 28.

**39(1)** In this section, “amended Act” means the *Hotel Room Tax Act* as amended by sections 1 to 3, 4(a) and (b) and 6 to 38 of this Act.

**(2)** Section 1(1)(f) of the amended Act is amended by adding “2.1(4)(b),” before “22(1)(b)”.

**(3)** Section 2(3) of the amended Act is amended by adding “regardless of whether or not the operator is registered under section 2.1” after “the tourism levy”.

**(4)** Sections 16(1) and 21 of the amended Act are amended by adding “or a notice of refusal, suspension or cancellation under section 2.1” after “14.1(3)”.

**(5)** Section 40(1) is amended by adding the following after clause (n):

- (o) respecting the registration of persons under section 2.1.

**40(1)** This Act, except sections 4(c), 5 and 39, comes into force on April 1, 2005.

**(2)** Sections 4(c), 5 and 39 come into force on Proclamation.

### Explanatory Notes

**1** Amends chapter H-13 of the Revised Statutes of Alberta 2000.

**2** The title and chapter number of the Act presently read:

*HOTEL ROOM TAX ACT*  
*Chapter H-13*

**3** Section 1 presently reads in part:

*1 In this Act,*

- (a) *“accommodation” means lodging that is provided for a consideration in a hotel, motel, apartment building, hostel, lodging house, boarding house, club or other similar establishment, but does not include the following:*
- (i) *lodging that is occupied by the same individual continuously for a period of 28 days or more;*
  - (ii) *lodging that is provided in an establishment in which there are fewer than 4 bedrooms available for rent separately;*
  - (iii) *a room that does not contain a bed and that is used for displaying merchandise, holding meetings or receptions or entertaining;*
  - (iv) *lodging that is provided in a social care facility, a nursing home or a hospital;*
  - (v) *lodging that is provided by a registered charity within the meaning of the Income Tax Act (Canada) other than in an establishment owned or operated by a registered charity that is normally used for lodging in connection with a course of instruction;*
  - (vi) *lodging that is provided to an employee by an employer who is not in the business of selling lodging in an establishment owned or managed by or on behalf of the employer;*

- (vii) *other lodging that is exempted by the regulations;*
- (f) *“officer” means*
  - (i) *a member of the Royal Canadian Mounted Police,*
  - (ii) *a police officer,*
  - (iii) *a special constable appointed under the Police Act, and*
  - (iv) *any other person appointed by the Provincial Treasurer as an officer for the purposes of this Act;*
- (g) *“operator” means a person who sells or offers for sale accommodation in Alberta;*
- (i) *“purchase price” means the consideration that is given for accommodation, and if the accommodation provided consists of lodging together with one or more meals, transportation or other goods or services or the consideration is other than money, the purchase price is the price that is usually charged for or, in the Provincial Treasurer’s opinion, reasonably attributable to the lodging alone;*
- (j) *“purchaser” means a person who acquires accommodation*
  - (i) *for the purchaser’s own use, or*
  - (ii) *for use by another person.*

**4** Section 2 presently reads:

*2(1) A purchaser shall pay a tax to the Provincial Treasurer at the rate of 5% of the purchase price of the accommodation.*

*(2) An operator shall collect, as an agent of the Provincial Treasurer for the collection of tax, the tax payable under this Act from the purchaser when the purchase is made.*

*(3) If the Crown in right of Alberta is a purchaser, 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.*

*(4) Notwithstanding subsection (1), no tax is payable in respect of accommodation purchased 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.*

**5** Operator required to be registered; transitional provision; operator to advise Minister if ceasing to carry on business.

**6** Section 3 presently reads:

*3 An operator who collects tax paid under section 2 shall remit it to the Provincial Treasurer in the manner and at the times prescribed in the regulations.*

**7** Section 4 presently reads:

*4 Where a person has possession of or control over funds that are collected as taxes under this Act, that person holds those funds in trust for the Provincial Treasurer.*

**8** Section 5 presently reads:

*5(1) The Provincial Treasurer may assess any tax payable by a purchaser under this Act within 3 years from the day the tax became payable, except that, if the purchaser 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 Treasurer may*

*assess tax imposed by this Act at any time the Provincial Treasurer considers reasonable.*

*(2) Liability for tax imposed by 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 the tax payable under this Act.*

**9** Section 6 presently reads:

*6(1) The Provincial Treasurer may assess against an operator who fails to collect or remit tax that the operator is required by this Act to collect and remit a penalty in an amount equal to the amount of tax that the operator 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 an operator 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 collected and remitted earlier than 3 years prior to the date of the assessment under subsection (1).*

**10** Late filing penalty.

**11** Section 7 presently reads:

*7(1) Unless it is varied or vacated on an objection or appeal,*

*(a) an assessment made under section 5 or 6 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 5 or 6 is, for the purposes of collection and recovery, 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.*

*(2) Every person assessed under section 5 or 6 shall, within 30 days after the service of the notice of assessment, pay the amount assessed against the person whether or not an objection to or appeal from the assessment is outstanding.*

**12** Section 8 presently reads:

*8(1) Where*

*(a) a person owes an amount to the Crown under this Act, 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.*

*(2) On assessing a penalty under subsection (1), the Provincial Treasurer may demand payment of the amount owing and the amount of the penalty from the person to whom the demand is directed.*

*(3) Evidence that a demand has been made under subsection (2) is proof, in the absence of evidence to the contrary, that the unpaid amount and 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.*

**13** Section 10 presently reads:

*10(1) If the Provincial Treasurer has knowledge or suspects that a person is or will be indebted or liable to make any payment to another person who owes an amount under this Act, the Provincial Treasurer may, by a notice served on that person, require that person to pay the money otherwise payable to that other person in whole or in part to the Provincial Treasurer on account of the amount owing under this Act.*

*(2) Where a notice is given to a person under subsection (1), that notice applies to any indebtedness or liability to make any payment that exists at the time of the giving of the notice, or that arises within 90 days from the day the notice is given, by that person to the other person who owes an amount under this Act.*

*(3) The receipt of the Provincial Treasurer for money paid under this section is a good and*

*sufficient discharge of the original liability to the extent of that payment.*

*(4) A person who, after receiving notice pursuant to subsection (1), has discharged any liability to the other person who owes an amount under this Act without complying with a requirement under this section is liable to pay to Her Majesty in right of Alberta*

*(a) an amount equal to the liability discharged, or*

*(b) the amount that the person was required under this section to pay to the Provincial Treasurer,*

*whichever is the lesser.*

**14** Sections 11 and 12 presently read:

*11(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 9, or*

*(c) require a person to make a payment under section 10,*

*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, in accordance with subsection (5), 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.*

*(5) The Provincial Treasurer when acting under subsection (4) may do so at any time after the Provincial Treasurer notifies the person in writing that*

- (a) the decision has been made by the Court in the other action referred to in subsection (4),*
- (b) the decision has been made by the Court of Appeal in that action, or*
- (c) judgment has been delivered by the Supreme Court of Canada in that action,*

*as the case may be.*

*12(1) Notwithstanding section 11, 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 11(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 apply by originating notice 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).*

*(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 any other order that the Court considers appropriate in the circumstances.*

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

**15** Section 13 presently reads:

*13 Interest is payable*

- (a) by an operator in respect of an amount of tax that the operator fails to remit in accordance with this Act and the regulations,*
- (b) by a purchaser in respect of an amount of tax assessed against the purchaser under section 5 and that the purchaser fails to pay in accordance with this Act and the regulations, and*
- (c) by an operator or any other person in respect of a penalty that the operator or other person is liable to pay under this Act and that the operator or other person fails to pay in accordance with this Act and the regulations,*

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

**16** Minister may waive or cancel penalties or interest.

**17** Section 14 presently reads:

*14(1) A trustee in bankruptcy, assignee, liquidator, administrator, receiver, receiver-manager or any other similar person, referred to in this section as the “responsible representative”, administering, winding up, controlling or otherwise dealing with a property or business of a person who is an operator shall, before distributing any property over which the responsible representative has control in that capacity as the responsible representative, obtain a certificate from the Provincial Treasurer certifying that all amounts*

- (a) for which the operator is liable under this Act up to the date of the certificate, and*
- (b) for the payment of which the responsible representative is or can reasonably be expected to become liable in that capacity as the responsible representative*

*have been paid or that security for the payment of the amounts has been accepted by the Provincial Treasurer.*

*(2) If a responsible representative distributes property over which the responsible representative has control in that capacity as the responsible representative without obtaining a certificate under subsection (1) in respect of the amounts referred to in that subsection, the responsible representative is personally liable for the payment of those amounts to the extent of the value of the property distributed, and the Provincial Treasurer may assess the responsible representative for the amounts in the same manner and with the same effect as if it were an assessment under this Act of the operator for whose property or business the responsible representative is responsible.*

**18** Section 15 presently reads:

*15 Taxes, penalties and interest payable under this Act are recoverable by Her Majesty in right of Alberta in an action in debt.*

**19** Section 16 presently reads:

*16(1) A person who objects to a notice of assessment under section 5 or 6 may, within 90 days after the day of mailing of the notice of assessment, serve on the Provincial Treasurer a notice of objection in the prescribed form setting out the reasons for the objection and the relevant facts.*

*(2) A notice of objection under this section shall be served by being sent by certified mail or registered letter addressed to the Provincial Treasurer.*

*(3) The Provincial Treasurer may accept a notice of objection under this section notwithstanding that it was not served in the manner required by subsection (2).*

*(4) On receipt of a notice of objection, the Provincial Treasurer shall with all due dispatch reconsider the assessment and shall*

*(a) vacate, confirm or vary the assessment and notify the objector of the Provincial Treasurer's decision by certified mail or registered letter, or*

*(b) serve a new notice of assessment.*

**20** Extension of time by the Minister and by the Court.

**21** Section 17 presently reads in part:

*17(1) A person who has served a notice of objection under section 16 may appeal to the Court to have the assessment vacated or varied after*

- (a) *the Provincial Treasurer has confirmed the assessment or served a new notice of assessment under section 16(4), or*
- (b) *90 days have elapsed after service of the notice of objection and the Provincial Treasurer has not acted under section 16(4),*

*but no appeal under this section may be instituted after the expiration of 90 days from the day a notification or notice under section 16(4) was mailed to the objector.*

*(2) An appeal to the Court shall be instituted by serving on the Provincial Treasurer a notice of appeal and by filing a copy of the notice of appeal with the clerk of the Court.*

*(3) A notice of appeal shall be served on the Provincial Treasurer by being sent by certified mail or registered letter addressed to the Provincial Treasurer.*

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

- (3) *The Court may*
  - (a) *dismiss the appeal, or*
  - (b) *allow the appeal, and*
    - (i) *vacate the assessment,*
    - (ii) *vary the assessment,*
    - (iii) *restore the assessment, or*
    - (iv) *refer the assessment back to the Provincial Treasurer for reconsideration.*
- (4) *The Court may, in delivering judgment on an appeal, order payment or repayment of tax, interest, penalties or costs by the appellant or the Provincial Treasurer.*

**23** Section 21 presently reads:

*21 An assessment shall not be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of a person in the observation of a directory provision of this Act.*

**24** Documents deemed signed.

**25** Section 22 presently reads in part:

*22(1) The Provincial Treasurer may, for any purpose related to the administration or enforcement of this Act or the regulations, by a notice served personally or by registered letter or certified mail*

*(a) demand that an operator, or*

*(b) when an operator is a partnership or corporation, demand that a partner or the president or another officer or manager,*

*secretary or any director, agent or representative of the partnership or corporation,*

*provide or produce any information or additional information or any document within a reasonable period of time stipulated in the notice.*

*(2) The Provincial Treasurer may, for any purpose related to the administration or enforcement of this Act or the regulations, by a notice served personally or by registered letter or certified mail, demand that*

*(a) a person holding an amount for or paying or liable to pay any amount to an operator, or*

*(b) a partner, president or other officer, director or agent of any person holding an amount for*



*or paying or liable to pay any amount to an operator*

*provide or produce any information or additional information or any document within the reasonable period of time stipulated in the notice.*

*(3) The Provincial Treasurer may, by a notice served personally or by registered letter or certified mail, require the production by any person, or by that person's agent, of any document in the possession of or under the control of that person or that person's agent within a reasonable period of time stipulated in the notice, for the purpose of determining what tax, if any, is payable or collectible under this Act by any person.*

**26** Section 26 presently reads:

*26(1) If any book, record, paper or other document has been seized, examined or produced under section 22 or 25 or pursuant to a search warrant, the person by whom it is seized or examined or to whom it is produced or any officer of the Treasury Department may make, or cause to be made, one or more copies.*

*(2) A document purporting to be certified by the Provincial Treasurer or a person authorized by the Provincial Treasurer to be a copy made pursuant to this section shall be admitted in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.*

**27** Communication of information.

**28** Section 29 presently reads:

*29(1) The Provincial Treasurer may, if the Provincial Treasurer considers it advisable in a particular case, accept security for payment of debts due to Her Majesty in right of Alberta under this Act by way of mortgage or other charge on or a security*

*interest under the Personal Property Security Act in any kind on property of the person liable for the debt or any other person or by way of guarantee from other persons.*

*(2) If a person who has furnished security under subsection (1) requests in writing that the Provincial Treasurer surrender the security, the Provincial Treasurer shall surrender the security to the extent that the value of the security exceeds the aggregate of amounts payable under this Act by that person at that time.*

**29** Section 30(1) presently reads:

*30(1) Where a notice or other document is to be served on or is to be sent or given to a person by the Provincial Treasurer or an officer under this Act, the notice or document may be served on or sent or given to*

- (a) a person other than a corporation,*
    - (i) by being mailed to the person by ordinary, certified or registered mail addressed to the person to whom the notice or document is directed at that person's last address known to the Provincial Treasurer, or*
    - (ii) by personal service,*
  - (b) a corporation,*
    - (i) in accordance with section 256 of the Business Corporations Act, or*
    - (ii) by registered mail addressed to the corporation at the corporation's last address known to the Provincial Treasurer,*
- and*
- (c) a cooperative,*

- (i) *in accordance with section 347 of the Cooperatives Act, or*
- (ii) *by registered mail addressed to the cooperative at the cooperative's last address known to the Minister of Revenue.*

**30** Section 31 presently reads in part:

*31 Any person who*

- (d) *wilfully evades or attempts to evade compliance with this Act or the regulations, or*
- (e) *conspires with any person to commit an offence described in clauses (a) to (d)*

*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 sought to be evaded or to that fine and imprisonment for not more than 2 years.*

**31** Section 32 presently reads:

*32 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.*

**32** Section 33 presently reads:

*33 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.*

**33** Section 34 presently reads:

*34 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.*

**34** Section 35 presently reads in part:

*35(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.*

**35** Section 36 presently reads in part:

*36(1) An individual who*

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

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

(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

**36** Section 39.1 presently reads:

*39.1 The Limitations Act does not apply to the Crown with respect to any matter arising under this Act.*

**37** Section 40(1) presently reads in part:

*40(1) The Lieutenant Governor in Council may make regulations*

(a) respecting the collection and remission of tax under this Act;

(b) providing for a refund of the whole or any part of a tax paid under this Act and prescribing the records, material and information to be furnished on any application for a refund;

(c) governing funds that are held in trust;

(e) authorizing the Provincial Treasurer to enter into agreements with operators for the purpose of collecting tax under this Act;

(g) prescribing any commission to be paid to operators for services related to the collection and remission to the Provincial Treasurer of tax under this Act;

- (h) requiring surety bonds, bank guarantees or other financial arrangements to be furnished or made by any person who collects the tax imposed by this Act and prescribing the form and amount of the bonds, guarantees or other financial arrangements;*
- (i) prescribing duties of operators in relation to the collection of tax under this Act;*
- (j) respecting returns to be made to the Provincial Treasurer including the person required to make them;*
- (m) defining any word used in the Act or regulations and not defined in the Act.*

**38** References to Provincial Treasurer changed to Minister.

**39** Necessary amendments on the coming into force of section 2.1 of the Tourism Levy Act.

**40** Coming into force.