

1996

CHAPTER 46

An Act to amend *The Education and Health Tax Act*

(Assented to June 25, 1996)

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

Short title

1 This Act may be cited as *The Education and Health Tax Amendment Act, 1996*.

R.S.S. 1978, c.E-3 amended

2 *The Education and Health Tax Act* is amended in the manner set forth in this Act.

Section 3 amended

3 The following clause is added after clause 3(1)(c.2):

“(c.3) ‘**Her Majesty the Queen**’ means Her Majesty the Queen in right of Saskatchewan”.

New sections 5.1 to 5.8

4 The following sections are added after section 5:

“Interpretation of sections 5.1 to 5.8

5.1 In this section and in sections 5.2 to 5.8:

(a) ‘**acquisition year**’ means the year in which:

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

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

(b) ‘**fleet**’ means one or more interjurisdictional vehicles that are designated as a fleet by the person licensing the vehicles;

(c) ‘**fleet year**’ means the period:

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

(ii) ending on the earlier of:

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

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

- (d) **'interjurisdictional commercial purpose'** means engaging in interprovincial or international trade by way of the commercial carriage of passengers or goods;
- (e) **'interjurisdictional vehicle'** means a vehicle that is eligible to be licensed pursuant to a reciprocal agreement for an interjurisdictional commercial purpose;
- (f) **'reciprocal agreement'** means an agreement that is prescribed in the regulations and that is between Saskatchewan and one or more other provinces or territories of Canada or states of the United States of America in which the parties agree to prorate licensing fees or taxes on interjurisdictional vehicles and to collect and remit the other parties' portions of the licensing fees or taxes;
- (g) **'reciprocal jurisdiction'** means a province or territory of Canada or a state of the United States of America that has entered into a reciprocal agreement with Saskatchewan;
- (h) **'Saskatchewan distance ratio'** means the ratio calculated pursuant to section 5.2;
- (i) **'tax'** means the tax imposed pursuant to section 5.3;
- (j) **'taxable value'** means:
- (i) in the case of an interjurisdictional vehicle that is purchased, the greater of:
 - (A) the purchase price of the vehicle in the vehicle's acquisition year; and
 - (B) the fair market value of the vehicle in the vehicle's acquisition year;
 - (ii) in the case of an interjurisdictional vehicle that is leased, the greater of:
 - (A) the purchase price of the vehicle in the vehicle's acquisition year as described in the lease agreement; and
 - (B) the fair market value of the vehicle in the vehicle's acquisition year;
- (k) **'vehicle licence period'** means the period commencing on the date that an interjurisdictional vehicle is licensed and ending on the earlier of:
- (i) the expiry date of the licence; and
 - (ii) the date the licence is cancelled, surrendered or terminated.

"Saskatchewan distance ratio

5.2(1) In this section:

- (a) **'active interjurisdictional fleet'** means a fleet in which at least one of the vehicles was licensed as an interjurisdictional vehicle for at least 90 days during the calculation year preceding the start of the fleet year;
- (b) **'calculation year'** means the period commencing on July 1 in one year and ending on June 30 in the following year.
- (2) The Saskatchewan distance ratio is:
- (a) in the case of an interjurisdictional vehicle that is part of an active interjurisdictional fleet, the

ratio of:

(i) the actual distance travelled in Saskatchewan by the fleet in the period that:

(A) commences on the later of:

(I) the date in the preceding calculation year that it began operating as an interjurisdictional fleet; and

(II) the first day of the preceding calculation year; and

(B) ends on the last day of the preceding calculation year; and

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

(b) in any other case, the ratio of:

(i) a reasonable estimate of the distance that the fleet will travel in Saskatchewan during the fleet year; and

(ii) a reasonable estimate of the total distance that the fleet will travel in the fleet year.

"Tax

5.3(1) Every person who licenses an interjurisdictional vehicle for use in Saskatchewan and in one or more reciprocal jurisdictions shall pay the tax to Her Majesty the Queen with respect to each vehicle licence period for the interjurisdictional vehicle.

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

(3) The tax is payable:

(a) if the interjurisdictional vehicle is licensed in Saskatchewan, at the time the vehicle is licensed pursuant to *The Vehicle Administration Act*;

(b) if the interjurisdictional vehicle is not licensed in Saskatchewan:

(i) at the time the interjurisdictional vehicle is licensed in the reciprocal jurisdiction; or

(ii) if not paid at the time mentioned in subclause (i), at the time the interjurisdictional vehicle first enters Saskatchewan during the interjurisdictional vehicle's vehicle licence period.

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

“Exemption from section 5 tax

5.4(1) The following are exempt from the tax payable pursuant to section 5:

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

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

(c) any repair parts prescribed in the regulations that are used on an interjurisdictional vehicle mentioned in clause (a) or a trailer mentioned in clause (b), while the interjurisdictional vehicle or trailer is used for an interjurisdictional commercial purpose.

(2) Notwithstanding subsection (1), a person shall pay the tax payable pursuant to section 5 on:

(a) any equipment that is:

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

(ii) used or designed for a purpose other than the commercial carriage of goods or passengers; and

(b) any vehicle mentioned in clause (1)(a) or trailer mentioned in clause (1)(b) that is not used or ceases to be used for an interjurisdictional commercial purpose and any repair parts mentioned in clause (1)(c) used with a vehicle or trailer that ceases to be used for an interjurisdictional commercial purpose.

“Amount of tax

5.5(1) The amount of the tax payable with respect to an interjurisdictional vehicle is the amount calculated in accordance with the following formula:

$$\text{Tax} = \text{TV} \times \text{R} \times \text{SDR} \times \text{T}$$

where:

TV is the taxable value of the interjurisdictional vehicle;

R is the tax rate prescribed pursuant to subsection (2);

SDR is the Saskatchewan distance ratio for the interjurisdictional vehicle; and

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

(2) For the purposes of subsection (1), the tax rate with respect to an interjurisdictional vehicle is the rate shown opposite the appropriate year for the interjurisdictional vehicle:

<u>Year</u>	<u>Truck Tax Rate</u>	<u>Bus Tax Rate</u>
the acquisition year	4.235%	2.647%
the calendar year following the acquisition year	3.402%	2.126%
the second calendar year following the acquisition year	2.799%	1.749%
the third calendar year following the acquisition year	2.362%	1.476%
the fourth calendar year following the acquisition year	2.053%	1.283%
the fifth calendar year following the acquisition year	2.027%	1.267%
the sixth calendar year following the acquisition year	1.940%	1.212%
the seventh calendar year following the acquisition year	1.909%	1.193%
the eighth calendar year following the acquisition year	1.924%	1.202%
the ninth and subsequent calendar years following the acquisition year	1.971%	1.232%

“Adjustments of tax

5.6(1) Notwithstanding sections 5.2 to 5.5, the minister may adjust the amount of tax payable by using actual distances travelled by a fleet during a fleet year to calculate the Saskatchewan distance ratio if:

- (a) an estimate of the distances to be travelled by the fleet has been used initially to calculate the Saskatchewan distance ratio; and

(b) in the minister's opinion, using the actual distances travelled by the fleet during the fleet year would result in a materially different Saskatchewan distance ratio.

(2) The minister may make an adjustment pursuant to subsection (1) at any time following the end of the fleet year.

(3) If the minister makes an adjustment of tax pursuant to this section, the minister shall send written notice of the adjustment to the persons liable to pay the tax.

(4) If as a result of an adjustment pursuant to this section, the tax payable is:

(a) increased, the persons liable to pay the tax shall pay the increased tax in the manner and at the time directed by the minister;

(b) decreased, the minister shall provide the persons who paid the tax with a refund or credit in the amount of the overpayment.

“Artificial reduction

5.7(1) If, in the opinion of the minister, the result of one or more acts, agreements, arrangements, transactions or operations is to unduly or artificially reduce a person's liability for the tax, the minister may calculate the tax as if the act, agreement, arrangement, transaction or operation had not occurred.

(2) For the purposes of subsection (1), the minister may estimate the amount of the tax that would have been payable had the act, agreement, arrangement, transaction or operation not occurred.

“Refunds and credits

5.8(1) If an interjurisdictional vehicle that was licensed by a person as part of a fleet is, before the end of the fleet year applicable to that fleet, licensed by that person as part of a different fleet:

(a) the person licensing the interjurisdictional vehicle shall, with respect to that vehicle's new vehicle licence period, pay the tax to Her Majesty the Queen; and

- (b) on an application by the person mentioned in clause (a) and on receipt of evidence satisfactory to the minister, the minister shall provide to the person a refund or credit of a portion of the tax previously paid with respect to the interjurisdictional vehicle.
- (2) If a person pays the tax with respect to an interjurisdictional vehicle and the interjurisdictional vehicle is subsequently licensed for use solely within Saskatchewan:
- (a) the owner or lessee of the vehicle shall pay to Her Majesty the Queen, at the time of licensing, the amount of tax payable on the value of the vehicle as required pursuant to section 5; and
- (b) on an application by the owner or lessee mentioned in clause (a) and on receipt of evidence satisfactory to the minister, the minister shall provide to the owner or lessee a refund or credit.
- (3) The minister may provide a refund or credit to a person who purchased an interjurisdictional vehicle in Saskatchewan or who brought or sent an interjurisdictional vehicle into Saskatchewan if:
- (a) the person, on purchasing the interjurisdictional vehicle or on bringing or sending the interjurisdictional vehicle into Saskatchewan, has paid the amount of tax payable pursuant to section 5 on the interjurisdictional vehicle; and
- (b) the interjurisdictional vehicle was purchased or was first brought or sent into Saskatchewan by the person after December 31, 1992 and before the coming into force of this section.
- (4) The maximum amount of a refund or credit that may be provided pursuant to subsection (3) is the amount of the tax payable with respect to the interjurisdictional vehicle.
- (5) The amount of a refund or credit authorized to be provided pursuant to section 5.6 or this section is to be calculated in the manner prescribed in the regulations.
- (6) At the time and in the manner prescribed in the regulations, the minister may:
- (a) pay a refund or credit authorized to be provided by section 5.6 or this section out of the general revenue fund, and any refund or credit is to be accounted for as a reduction of revenues received pursuant to this Act; or
- (b) apply the amount of the refund or credit against the amount of any tax that the person entitled to the refund or credit owes pursuant to this Act⁷.

Section 8 amended

5 Clause 8(1)(ll) is amended by adding "or section 5.3," after "subsection 5(7), (9.1) or (13)".

Section 44 amended

6 The following clauses are added after clause 44(2)(l):

- “(m) prescribing agreements for the purposes of clause 5.1(f);
- “(n) prescribing the manner in which the tax payable pursuant to section 5.3 is to be paid;
- “(o) prescribing repair parts for the purposes of clause 5.4(1)(c);
- “(p) prescribing how refunds or credits granted pursuant to sections 5.6 and 5.8 are to be calculated;
- “(q) prescribing the time and manner in which refunds and credits may be paid or applied to tax pursuant to subsection 5.8(6)”.

Coming into force

- 7 This Act comes into force on January 1, 1997.