

2007

CHAPTER 37

An Act to amend *The Revenue and Financial Services Act*

(Assented to May 17, 2007)

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 Revenue and Financial Services Amendment Act, 2007*.

S.S. 1983, c.R-22.01 amended

2 *The Revenue and Financial Services Act* is amended in the manner set forth in this Act.

Section 55 amended

3 The following subsections are added after subsection 55(2):

“(2.1) If a person who is required to maintain books and records pursuant to this section maintains those records in an electronic format, that person shall:

- (a) ensure that the records are easily retrievable, and easily convertible into a readable format, in the manner the minister may specify;
- (b) ensure that the records provide a clear and complete audit trail from the source documents that provide details of the originating transactions that relate to a tax, including the amount of tax collected or payable, through to any general ledger, financial statements or other documents showing summarized financial information;
- (c) retain separate copies of source documents providing details of all transactions that relate to a tax; and
- (d) make those records available to the minister in the format in which they are kept when requested by the minister to do so.

“(2.2) For the purposes of clause (2.1)(d), the person shall allow the minister to access any database or computer system, or to obtain downloads or make copies from any database or computer system, that contains or may contain any records required to be maintained pursuant to this section”.

Section 58 amended

4 Subsection 58(1) is repealed and the following substituted:

“(1) Notwithstanding section 57, a collector or taxpayer shall pay the penalty and interest set out in subsection (1.1) if:

- (a) an audit is performed on the collector or taxpayer pursuant to this Part or a revenue Act; and
- (b) as a result of that audit, the collector or taxpayer is assessed for tax collected, deemed to be collected or payable pursuant to this Part or any revenue Act.

“(1.1) In the circumstances mentioned in subsection (1), the collector or taxpayer is liable to pay to Her Majesty, in addition to any other penalty:

- (a) one of the following:
 - (i) a penalty equal to 10% of the tax amount of assessed;
 - (ii) if a collector has collected, but not remitted, any tax as required by this Part or a revenue Act, a penalty equal to 25% of the amount of tax assessed;
 - (iii) if the minister is satisfied that a collector who has collected tax has wilfully failed to remit the tax as required by this Part or a revenue Act, a penalty equal to the amount of tax assessed; and
- (b) interest, at the rate and applied in the manner prescribed in the regulations, on the amount of tax assessed, from the day on which the tax was required to be forwarded or paid”.

Section 59 amended

5 Subsection 59(1) is amended by striking out “clauses 57(1)(a) and 58(1)(c) and (d)” and substituting “clause 57(1)(a) and section 58”.

Section 70 amended

6(1) Subsection 70(1) is amended:

- (a) by adding “or” after clause (a);
- (b) by striking out “or” after clause (b); and
- (c) by repealing clause (c).

(2) Subsection 70(4) is repealed and the following substituted:

“(4) Notwithstanding subsections (1) and (2), the minister may authorize the release of any information or the contents of any record or return if:

- (a) any of the following apply:
 - (i) the information is requested by a law enforcement agency or investigative body for the purposes of enforcing a law of Saskatchewan or another jurisdiction inside or outside Canada;

- (ii) the information is of a sufficiently general or statistical nature that the information does not disclose the tax information of a particular collector or taxpayer;
 - (iii) the information is intended for use by a department or agency of the Government of Saskatchewan for the purposes of assisting in the administration or enforcement of an Act, law, program or function that the department or agency is responsible for administering or enforcing;
 - (iv) there are any other circumstances that may be prescribed in the regulations; and
- (b) the minister is satisfied that it is in the public interest to release the information or the contents of the record or return”.

New section 71.1

7 The following section is added after section 71:

“Agreements with First Nations

71.1(1) In this section:

- (a) **‘comparable revenue Act’** means the revenue Act to which a First Nation law is, in the opinion of the minister, similar;
- (b) **‘First Nation’** means:
 - (i) a band as defined in the *Indian Act* (Canada); or
 - (ii) a body of Indians that, through its governing body, has the power to enact laws, if that power has been recognized or granted under an agreement that has been given the force of law by an Act of Parliament;
- (c) **‘First Nation law’** means a law, passed by the governing body of a First Nation, that imposes a First Nation tax on a purchase of goods or services on a reserve that:
 - (i) in the opinion of the minister, is the same as or substantially similar to a tax; and
 - (ii) applies to all persons making a purchase of the goods or services that are the subject of the First Nation tax;
- (d) **‘First Nation tax’** means a charge, or fee, that:
 - (i) is in the nature of a tax; and
 - (ii) is imposed pursuant to a First Nation law;
- (e) **‘Indian’** means an Indian as defined in the *Indian Act* (Canada);
- (f) **‘reserve’** means a reserve as defined in the *Indian Act* (Canada);
- (g) **‘tax administration agreement’** means an agreement entered into pursuant to subsection (2).

- (2) If the governing body of a First Nation has enacted or intends to enact a First Nation law, the minister, on behalf of Her Majesty, may enter into an agreement with the First Nation respecting:
- (a) the administration and enforcement of the First Nation law; and
 - (b) the collection of a First Nation tax imposed pursuant to that First Nation law.
- (3) A tax administration agreement must:
- (a) identify the comparable revenue Act;
 - (b) ensure that the minister is entitled to receive the same data and information respecting on-reserve persons who are required to pay or collect a First Nations tax that the minister would receive under the comparable revenue Act from off-reserve persons who pay or collect tax pursuant to the comparable revenue Act; and
 - (c) provide that any officers and employees of the department who are administering and enforcing the First Nation law may enter onto the First Nation's reserve at any reasonable time for the purposes of conducting audits, investigations, enforcement and any other activities in connection with the administration of the First Nation law.
- (4) A tax administration agreement may:
- (a) provide for the sharing of the revenues from the First Nation tax or the retention by the minister of a commission or fee for the services provided by the minister under the agreement;
 - (b) appoint the minister or any officers or employees of the department as the agents of the First Nation for the purposes of collecting the First Nation tax and administering and enforcing the First Nation law;
 - (c) notwithstanding section 70, permit the minister and any officers or employees of the department to disclose to the First Nation or its representative any information acquired by the minister in the course of administering the First Nation law, including any return, record or information relating to persons required to pay or collect the First Nation tax; and
 - (d) include any other provisions, not inconsistent with subsection (3), that the minister considers appropriate.
- (5) Notwithstanding any other provision of this Act or any other Act or law, the minister shall pay to the First Nation any moneys that the minister is required to pay to that First Nation under the tax administration agreement.
- (6) Any amount mentioned in subsection (5) that is payable from the general revenue fund may be accounted for as a reduction of revenue to the general revenue fund.

(7) If a tax administration agreement is in effect, the tax imposed under the comparable revenue Act does not apply to persons who are subject to the First Nation tax that is the subject of the agreement.

(8) Notwithstanding any other Act, law or agreement, if, pursuant to a tax administration agreement, the minister has agreed to administer and enforce a First Nation law in the same manner as a revenue Act, and if the First Nation law incorporates Part III of this Act by reference:

(a) the First Nation law is deemed to be a revenue Act for the purposes of Part III of this Act;

(b) the minister may exercise any of the minister's powers given in Part III of this Act to administer and enforce the collection and payment of the First Nation tax; and

(c) every person who is required to pay or collect the First Nation tax that is the subject of the tax administration agreement must comply with Part III of this Act and is subject to Part III of this Act as if the First Nation law were a revenue Act and as if the First Nation tax were a tax”.

Section 85 amended

8 The following clause is added after clause 85(1)(d):

“(d.1) prescribing the circumstances under which the minister may release information or the contents of any record or return for the purposes of section 70”.

Coming into force

9(1) Subject to subsection (2), this Act comes into force on assent.

(2) Sections 4 and 5 of this Act come into force on July 1, 2007.

