

BILL

No. 84 of 1999-2000

An Act to amend *The Education and Health Tax Act* and to make consequential amendments to other Acts

(Assented to _____, 2000)

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, 2000*.

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.

New chapter number

3 **The chapter number is repealed and the following substituted:**

“CHAPTER P-34.1”.

Section 1 amended

4 **Section 1 is amended by striking out “*The Education and Health Tax Act*” and substituting “*The Provincial Sales Tax Act*”.**

Section 3 amended

5(1) **Clause 3(1)(a.1) is repealed and the following substituted:**

“(a.1) ‘**computer services**’ means:

- (i) packaged or prewritten computer programs;
- (ii) computer programs that are designed or developed to meet the specific needs of a consumer or user;
- (iii) any charges for labour related to the development, maintenance, testing or modification of a computer program or to a system or network of computers;
- (iv) any licence fee, access fee or other charge for the right to use or access a computer program;
- (v) the processing, input, transformation or other manipulation of data into a form readable by a computer; and
- (vi) any services respecting computers prescribed in the regulations;

but does not include anything mentioned in subclauses (i) to (vi) that is provided by a person to his or her employer in the course that employment”.

(2) Clauses 3(1)(c.1) and (c.11) are repealed and the following substituted:

“(c.1) **‘consumption or use’** includes the provision, by way of promotional distribution, of tangible personal property or a taxable service, to the extent that the value of the tangible personal property or taxable service is greater than any payment intended to be and subsequently specifically made for that tangible personal property or taxable service by the person to whom it was provided;

“(c.11) **‘extended warranty or maintenance contract’** means a warranty or guarantee contract or any other agreement that provides for the repair, maintenance or replacement of tangible personal property”.

(3) Clause 3(1)(e.1) is amended in the portion preceding subclause (i) by adding “or a taxable service” after “tangible personal property”.

(4) Clause 3(1)(i) is amended:

(a) in subclause (iii) by striking out “but does not include the repairing, refurbishing or maintaining of tangible personal property”; and

(b) in subclause (iv) by striking out “but does not include a transfer made solely for the purpose of repairing, refurbishing or maintaining tangible personal property”.

(5) Clause 3(1)(k) is repealed and the following substituted:

“(k) **‘taxable service’** means:

- (i) computer services;
- (ii) credit reporting or collection services;
- (iii) dry cleaning or laundry services;
- (iv) extended warranties or maintenance contracts;
- (v) lodging in hotels, motels, hostels, apartment houses, lodging houses, cabins, cottages, clubs and other similar accommodation whether or not a membership is required for the lodging, except lodging let for a continuous period of one month or more;
- (vi) real estate services;
- (vii) repair or installation services;
- (viii) security or private investigation services;
- (ix) telecommunication services;
- (x) telephone answering services;
- (xi) veterinary services”.

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(6) The following clauses are added after subclause 3(1)(k)(xi):

- “(xii) accounting services;
- “(xiii) advertising services;
- “(xiv) architectural services;
- “(xv) commercial building cleaning services;
- “(xvi) employment placement services;
- “(xvii) engineering services;
- “(xviii) legal services”.

Section 4 amended

6 Subsection 4(3) is amended by striking out “and shall be signed by the minister, or such person as the minister appoints for the purpose,”.

Section 5 amended**7(1) Subsection 5(10) is repealed and the following substituted:**

“(10) Every person residing, ordinarily resident or carrying on business in Saskatchewan who acquires, outside Saskatchewan, a taxable service, other than a taxable service prescribed pursuant to subsection (10.4), for his or her own use or for the use of other persons at his or her expense, or on behalf of or as agent for a principal for use by the principal or other persons at his or her expense, shall, immediately after the taxable service is acquired, comply with:

- (a) subsection (10.1) if all of that taxable service relates to Saskatchewan in the manner prescribed in the regulations; or
- (b) subsection (10.2) if only a portion of that taxable service relates to Saskatchewan in the manner prescribed in the regulations.

“(10.1) A person required to comply with this subsection shall:

- (a) report the matter to the minister and forward to or produce for the minister the invoice, if any, and any other information required by the minister respecting the taxable service; and
- (b) pay tax computed at a rate of 6% of the value of the taxable service.

“(10.2) A person required to comply with this subsection shall:

- (a) make and retain a record containing a reasonable estimate of the value of the taxable service that relates to Saskatchewan and the basis on which the estimate is made;
- (b) report the matter to the minister and forward to or produce for the minister the invoice, if any, a copy of the record mentioned in clause (a) and any other information required by the minister respecting the taxable service; and
- (c) pay tax computed at a rate of 6% of the value of the taxable service that is estimated to relate to Saskatchewan.

“(10.3) Where a person mentioned in subsection (10.2) does not make an estimate, or makes an estimate that is not, in the minister’s opinion, a reasonable estimate, the minister may set an amount that the minister considers to be the value of the taxable service that relates to Saskatchewan.

“(10.4) Every person residing, ordinarily resident or carrying on business in Saskatchewan shall comply with subsection (10.5) where that person, for his or her own use or for the use of other persons at his or her expense, or on behalf of or as agent for a principal for use by the principal or other persons at his or her expense:

(a) takes or sends tangible personal property out of Saskatchewan primarily for the purpose of having a taxable service prescribed in the regulations provided respecting that tangible personal property; and

(b) brings or sends to Saskatchewan or receives delivery in Saskatchewan of that tangible personal property after the taxable service has been provided.

“(10.5) A person required to comply with this subsection shall:

(a) immediately after the tangible personal property is returned to Saskatchewan, report the matter to the minister and forward to or produce for the minister the invoice, if any, and any other information required by the minister respecting the taxable service; and

(b) pay tax computed at 6% of the value of the taxable service”.

(2) Subsection 5(11) is repealed and the following substituted:

“(11) Every person residing, ordinarily resident or carrying on business in Saskatchewan who purchases, from a person who is not a vendor, tangible personal property or a taxable service in Saskatchewan for his or her own consumption or use, or for the consumption or use of other persons at his or her expense, or on behalf of or as agent for a principal who desires to acquire the property or service for consumption or use by the principal or other persons at his or her expense, shall:

(a) immediately report the matter to the minister;

(b) forward or produce to the minister the invoice, if any, respecting the property or service and any other information required by the minister respecting the property or service; and

(c) pay tax computed at the rate of 6% of the value of the property or service”.

(3) Subsection 5(17.2) is amended by striking out “goods” wherever it appears and in each case substituting “taxable goods or a taxable service”.

(4) The following subsections are added after subsection 5(21):

“(21.1) Subject to subsections (21.2) to (21.6) and the regulations, where tangible personal property is accepted on trade at the time of sale by a person or a vendor respecting other tangible personal property sold, the consumer or user shall pay the tax on the difference between the value of the tangible personal property sold and the credit allowed for the tangible personal property accepted on trade.

“(21.2) Subject to the regulations, where a consumer or user purchases prescribed goods, other than a vehicle, on which the tax imposed by this Act has previously been paid, the consumer or user may, before determining the tax due, deduct from the value of those goods, an amount, if any, prescribed in the regulations.

“(21.3) Subject to the regulations, where a consumer or user purchases a vehicle on which the tax imposed by this Act has been paid in full from a person prescribed in the regulations, the consumer or user may, before determining the tax due, deduct from the value of the vehicle, an amount, if any, prescribed in the regulations.

“(21.4) Subsection (21.3) does not apply respecting vehicles on which tax has been paid pursuant to subsection (9.1) or to the interjurisdictional vehicles taxed in accordance with sections 5.1 to 5.8.

“(21.5) Where a consumer or user eligible for the deduction mentioned in subsection (21.3) has a vehicle accepted on trade at the time of sale, he or she may decline the deduction and elect to determine the tax payable on the vehicle in the manner set out in subsection (21.1).

“(21.6) Subsection (21.1) does not apply if:

- (a) the tangible personal property accepted in trade is exempt from the tax imposed by this Act or the tax imposed by this Act has not been paid at the time the tangible personal property is accepted in trade;
- (b) the tangible personal property is not tendered in trade by the purchaser at the time of sale; or
- (c) the tangible personal property tendered in trade does not belong to the purchaser”.

Section 5.4 amended

8(1) Clause 5.4(1)(c) is amended by adding “, or repair or installation services prescribed in the regulations respecting,” after “used on”.

(2) Subclause 5.4(2)(a)(i) is amended by striking out “an interjurisdictional vehicle or”.

Section 8 amended

9(1) The following clause is added after clause 8(1)(a.1):

“(a.2) aircraft that are registered pursuant to the *Aeronautics Act* (Canada) as commercial aircraft for the purpose of transporting freight or passengers for gain, including repair parts or repair or installation services respecting those aircraft”.

(2) Clause 8(1)(c) is repealed.

(3) Clause 8(1)(m) is repealed and the following substituted:

“(m) drugs and medicines:

- (i) for use by humans that can only be obtained by prescription from a duly qualified medical practitioner; or
- (ii) purchased for livestock that are part of a primary farming activity”.

- (4) **Clause 8(1)(n) is amended:**
- (a) **by striking out “or” after subclause (iii);**
 - (b) **by adding “or” after subclause (iv); and**
 - (c) **by adding the following subclause after subclause (iv):**
 - “(v) street lighting when purchased by a municipality”.
- (5) **Clause 8(1)(w) is repealed.**
- (6) **The following clause is added after clause 8(1)(bb.1):**
- “(bb.2) mobile homes, modular homes or ready-to-move homes on which the tax imposed pursuant to subsection 5(2.1) has been paid”.
- (7) **Clauses 8(1)(hh) and (ii) are repealed.**
- (8) **The following clause is added before clause 8(1)(jj):**
- “(ii.1) sand or gravel purchased for use by a municipality or by the Department of Highways and Transportation”.
- (9) **Clause 8(1)(jj) is amended by adding “, or repair or installation services respecting tangible personal property,” after “personal property”.**
- (10) **Clause 8(1)(ll) is repealed.**
- (11) **Clause 8(1)(nn) is repealed.**
- (12) **Subsection 8(2) is amended by adding “or maintenance contracts” after “warranties”.**
- (13) **Subsection 8(3) is repealed and the following substituted:**
- “(3) No taxable service is exempt from the tax imposed by this Act by reason of the fact that the tangible personal property used in providing the taxable service is tangible personal property with respect to which the tax imposed pursuant to this Act, or any *Education and Health Tax Act*, has previously been paid”.

New sections 8.2 to 8.8

- 10 The following is added after section 8.1:**

“RETURNING RESIDENTS

“**Interpretation of sections 8.2 to 8.8**

8.2 In this section and sections 8.3 to 8.8:

- (a) **‘agreement’** means an agreement mentioned in section 8.8;
- (b) **‘collection agent’** means:
 - (i) an officer as defined in section 2 of the *Customs Act* (Canada) who is employed at a customs office in Saskatchewan; and
 - (ii) if an agreement is in force between the Minister of National Revenue and Canada Post Corporation providing for the collection of tax pursuant to this Act:

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- (A) Canada Post Corporation; or
- (B) a collection agent for Canada Post Corporation;
- (c) **‘returning resident’** means a person who:
 - (i) resides, ordinarily resides or carries on business in Saskatchewan; and
 - (ii) brings specified tangible personal property into Saskatchewan from outside Canada, causes it to be brought into, or receives delivery of it in, Saskatchewan from outside Canada:
 - (A) for that person’s own consumption or use;
 - (B) for consumption or use by another person at the first person’s expense; or
 - (C) on behalf of, or as agent for, a principal for consumption or use by the principal or by other persons at his or her expense;
- (d) **‘specified tangible personal property’** means tangible personal property, but does not include:
 - (i) vehicles prescribed in the regulations for the purposes of this section;
 - (ii) tangible personal property that, if purchased in Saskatchewan, would be exempt from tax; or
 - (iii) tangible personal property that is prescribed in the regulations as not being specified tangible personal property for the purposes of this section.

“Application

8.3 Sections 8.2 to 8.8 only apply when an agreement is in force.

“Payment of tax

8.4(1) On bringing specified tangible personal property into Saskatchewan or causing it to be brought into Saskatchewan or on receiving delivery of it in Saskatchewan, a returning resident shall:

- (a) immediately report the matter to a collection agent;
 - (b) forward or provide to the collection agent the invoice, if any, respecting the specified tangible personal property and any other information required by the collection agent respecting the property; and
 - (c) pay the same tax respecting the consumption or use of that tangible personal property that would have been payable if the property had been purchased from a vendor at a retail sale in Saskatchewan.
- (2) No tax is payable on specified tangible personal property with respect to which no tax is payable pursuant to Division III of Part IX of the *Excise Tax Act* (Canada).

“Failure to report or pay taxes

8.5(1) If a returning resident fails or refuses to comply with subsection 8.4(1), the collection agent may detain the specified tangible personal property until the earlier of:

- (a) the date on which the tax on the specified tangible personal property and the costs, if any, relating to its detention are paid; and
 - (b) the expiration of 60 days after the detention began.
- (2) If the tax and any costs related to the detention of the specified tangible personal property are paid before the expiration of 60 days, the specified tangible personal property shall be returned to the returning resident.
- (3) If the tax and any costs are not paid before the expiration of 60 days, the specified tangible personal property is forfeited to Her Majesty the Queen and may be disposed of as directed by the minister.

“Application for refund

8.6 A returning resident may apply to the Minister of National Revenue, in that Minister’s capacity as agent for Her Majesty the Queen, for a refund of tax paid to a collection agent if it is subsequently determined that no tax was payable by the returning resident pursuant to section 8.4.

“Liability

8.7 No action or other proceeding for damages shall be instituted against a collection agent acting pursuant to an agreement for any loss or damage suffered by any person by reason of anything done, attempted, caused or permitted to be done or omitted to be done in good faith by the collection agent:

- (a) pursuant to or in the performance or supposed performance of any duty pursuant to this Act, the regulations or the agreement; or
- (b) pursuant to or in the exercise or supposed exercise of any power given by this Act, the regulations or the agreement.

“Agreement for collection of taxes

8.8(1) The minister may, on behalf of Her Majesty the Queen, enter into an agreement with the Government of Canada respecting the administration and enforcement of this Act respecting tangible personal property that is:

- (a) brought or sent into Saskatchewan from outside Canada by a returning resident; or
 - (b) delivered in Saskatchewan from outside Canada to a returning resident.
- (2) An agreement mentioned in subsection (1) may authorize payment to the Government of Canada respecting services provided under the agreement.
- (3) Payments respecting the ongoing costs of services provided under the agreement may be paid out of the amounts collected on behalf of Her Majesty the Queen and may be accounted for as a reduction of revenues received pursuant to section 8.4.

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(4) The Government of Canada may, as agent of Her Majesty the Queen, act in accordance with the agreement to:

(a) collect tax owing respecting tangible personal property that is released by a collection agent without payment of all or part of the tax imposed by this Act; and

(b) refund an amount charged or collected by a collection agent that is in excess of the amount of tax payable respecting the tangible personal property.

(5) An agreement made pursuant to subsection (1) must specify the circumstances under which the collection agent may require that a returning resident claiming an exemption from tax must nevertheless pay the tax to the collection agent”.

Section 29.1 amended

11 Subsection 29.1(1) is amended by striking out “a former” and substituting “any”.

Section 44 amended

12 The following clauses are added after clause 44(2)(q):

“(r) prescribing the taxable services for the purposes of subsections 5(10) and (10.4);

“(s) respecting when a taxable service relates to Saskatchewan;

“(t) respecting the taxes payable pursuant to subsection 5(3) where a portion of the taxable service relates to a jurisdiction other than Saskatchewan;

“(u) for the purposes of subsections 5(21.1) and (21.3), prescribing the persons, consumers or users to whom, and the circumstances in which, those subsections apply;

“(v) exempting any person from the payment of taxes pursuant to this Act and prescribing conditions under which a person is exempt from the payment of taxes”.

Transitional

13(1) Where a written contract for the provision of a taxable service mentioned in subclauses 3(1)(k)(i) to (xi) of *The Provincial Sales Tax Act*, as amended by this Act, was entered into before March 30, 2000, the person purchasing the taxable service shall pay tax on the taxable service, or any portion of the taxable service, delivered on or after March 30, 2000.

(2) Where a written contract for the provision of a taxable service mentioned in subclauses 3(1)(k)(xii) to (xviii) of *The Provincial Sales Tax Act*, as amended by this Act, is entered into before July 1, 2000, the person purchasing the taxable service shall pay tax on the taxable service, or any portion of the taxable service, delivered on or after July 1, 2000.

S.S. 1986-87-88, c.F-23.2, section 12 amended

14 Subsection 12(2) of *The Fuel Tax Act, 1987* is amended by adding “or *The Provincial Sales Tax Act*” after “*The Education and Health Tax Act*”.

R.S.S. 1978, c.I-2, section 7.31 amended

15 Section 7.31 of *The Income Tax Act* is amended by adding “or *The Provincial Sales Tax Act*” after “*The Education and Health Tax Act*”:

- (a) in subclause (1)(d)(iii);
- (b) in subsection (4):
 - (i) in the portion preceding clause (a);
 - (ii) in clause (a); and
 - (iii) in paragraph (b)(iii)(A); and
- (c) in subsection (5):
 - (i) in the portion preceding clause (a);
 - (ii) in the portion of subclause (a)(iii) preceding paragraph (A); and
 - (iii) in paragraph (a)(iii)(A).

R.S.S. 1978 (Supp.), c.M-32.1, section 2 amended

16 Subclause 2(b)(ii) of *The Municipal Revenue Sharing Act* is amended by striking out “The Education and Health Tax” and substituting “The Provincial Sales Tax”.

S.S. 1984-85-86, c.R-22.01, section 47 amended

17 Subsection 47(1) of *The Revenue and Financial Services Act* is amended by striking out “*The Education and Health Tax Act*” and substituting “*The Provincial Sales Tax Act*”:

- (a) in subclause (a)(ii);
- (b) in subclause (e)(ii); and
- (c) in subclause (g)(ii).

S.S. 1986, c.V-2.1, section 29 amended

18 Section 29 of *The Vehicle Administration Act* is amended:

- (a) in clause (3)(e) by adding “*The Provincial Sales Tax Act*,” after “payable under”; and
- (b) by repealing subclause (4)(e)(iv) and substituting the following:
 - “(iv) *The Education and Health Tax Act*, *The Provincial Sales Tax Act* or the regulations made pursuant to that Act”.

Coming into force

- 19(1)** Subject to subsections (2) to (4), this Act comes into force on assent.
- (2) Subsections 5(1) to (5) and sections 7, 8, 9 and 12 come into force on assent, but are retroactive and are deemed to have been in force on and from March 30, 2000.
- (3) Subject to subsection (4), subsection 5(6) comes into force on July 1, 2000.
- (4) If this Act is assented to after July 1, 2000, subsection 5(6) comes into force on assent but is retroactive and is deemed to have been in force on and from July 1, 2000.