

The Motor Vehicle Insurance Premiums Tax Act

being

Chapter M-23 of *The Revised Statutes of Saskatchewan, 1978*
(effective February 26, 1979).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER M-23

An Act to impose a Tax on the Income derived from Motor Vehicle Insurance Premiums in order to raise Moneys to assist in financing Programs of Instruction respecting the safe operation of Motor Vehicles

Short title

1 This Act may be cited as *The Motor Vehicle Insurance Premiums Tax Act*.

Interpretation

2 In this Act:

“company”

(a) “**company**” means insurance company;

“high school”

(b) “**high school**” includes an institution that provides courses of educational instruction substantially similar to the courses set out in the curricula established by the Department of Education for high schools under *The Secondary Education Act*;

“insurance”

(c) “**insurance**” means insurance as defined in *The Saskatchewan Insurance Act*;

“insurance company”

(d) “**insurance company**” means a person or corporation that carries on or, under *The Saskatchewan Insurance Act*, is deemed to carry on a motor vehicle insurance business in the province, and includes The Saskatchewan Government Insurance Office and underwriters or syndicates of underwriters operating on the plan known as Lloyd’s;

“minister”

(e) “**minister**” means the Minister of Finance;

“motor vehicle”

(f) “**motor vehicle**” means a motor vehicle, trailer or semi-trailer, as defined in section 2 of *The Vehicles Act*, that is either registered or required to be registered under that Act or licensed or required to be licensed under the *Motor Vehicle Transport Act* (Canada) or in respect of which there is an instrument issued as a policy of insurance in a form authorized under Part VI of *The Saskatchewan Insurance Act*;

“motor vehicle insurance”

(g) “**motor vehicle insurance**” means insurance against liability for loss or damage to persons or property caused by a motor vehicle or the use or operation thereof, and against loss of or damage to a motor vehicle, but does not include insurance against loss of or damage to, or liability for loss of or damage to, property carried in or on a motor vehicle unless the insurance is under a contract to which Part VI of *The Saskatchewan Insurance Act* applies;

“premium”

(h) “**premium**” means a single or periodic payment made as consideration under a contract of motor vehicle insurance and includes a basic or additional premium paid under *The Automobile Accident Insurance Act*;

“superintendent”

(i) “**superintendent**” means the Superintendent of Insurance.

NOTIFICATION

Insurance companies to notify minister respecting operations

3 Every insurance company that is engaged in the business of insurance in the province at the commencement of this Act, or that thereafter is so engaged, shall forthwith notify the superintendent of the fact that it is engaged in the business of insurance, and upon discontinuance of such business shall forthwith notify the minister of the discontinuance.

1967, c.19, s.3; 1973-74, c.67, s.3; 1978, c.M-23, s.3.

GRANTS

Power of Lieutenant Governor in Council

4 The Lieutenant Governor in Council may by order, on the recommendation of the Minister of Education and subject to such terms and conditions as may be specified in the order, make grants:

- (a) to high schools in each academic year in respect of students who are enrolled at the high schools and who, in courses approved by the Department of Education and conducted by or provided for the high schools, receive instructions with regard to the skill and knowledge necessary for the safe operation of a motor vehicle;
- (b) to persons who are receiving training, that has been approved by the Department of Education, to become qualified to instruct other persons with regard to the skill and knowledge necessary for the safe operation of a motor vehicle.

1967, c.19, s.4; 1978, c.M-23, s.4.

TAXATION, RETURNS, ETC.

Tax on gross motor vehicle insurance premiums

5(1) Subject to subsection (2), every insurance company shall pay to the minister a tax in respect of motor vehicle insurance premiums of one per cent calculated on the gross premiums receivable by the company or its agent or agents during each year in respect of motor vehicle insurance business transacted in the province, other than premiums in respect of re-insurance ceded to the company by other insurance companies, after deducting from such gross premiums the cash value of dividends paid or credited to policy holders and any premiums returned.

(2) In determining the amount of the tax payable under subsection (1) every premium that, by the terms of the motor vehicle insurance policy or renewal thereof, becomes payable in respect of a motor vehicle:

- (a) registered or required to be registered under *The Vehicles Act*;
- (b) licensed or required to be licensed by The Highway Traffic Board under the *Motor Vehicle Transport Act* (Canada);

shall be deemed to be a premium payable in respect of motor vehicle insurance business transacted in the province whether or not:

- (c) the premium is earned wholly or partly in Saskatchewan;
- (d) the payment of the premium is made wholly or partly in Saskatchewan.

1967, c.19, s.5; 1978, c.M-23, s.5.

Return of income

6(1) Every insurance company shall, on or before the fifteenth day of March in each year, without any notice or demand and in such form as the superintendent may require, make a return to the superintendent showing the premiums subject to tax for the immediately preceding year, together with such other information as the minister may deem necessary.

(2) Where the superintendent has knowledge or has reason to believe that an insurance company whose premium income is liable to assessment is about to cease transacting business in the province, the superintendent may by notice require the insurance company to make a return forthwith of income pursuant to this Act up to and including such date as may be specified in the notice.

(3) Where the superintendent, for any purpose of this Act, desires any information or return from an insurance company that has failed to make a return under this Act, or desires any additional information or a further return from an insurance company that has made a return, the superintendent may demand from that company the information or return desired, and that company shall furnish or deliver to the superintendent the information or return within the time specified in the demand.

1967, c.19, s.6; 1973-74, c.67, s.4; 1978, c.M-23, s.6.

Return by trustee, etc.

7 Every trustee in bankruptcy, assignee, liquidator, receiver, administrator and other person administering, managing, winding up, controlling or otherwise dealing with the property or business of an insurance company that has failed to make a return pursuant to this Act shall make the required return.

1967, c.19, s.7; 1978, c.M-23, s.7.

Statutory declaration

8 The superintendent may demand an insurance company that submits a return under this Act, within the time specified in the demand, to verify the correctness of the return by the statutory declaration of an officer of the company; and upon receipt of the demand the company shall, within the time so specified, cause the return to be so verified.

1967, c.19, s.8; 1973-74, c.67, s.4; 1978, c.M-23, s.8.

Extension of time

9 The superintendent may at any time extend the time for the making of a return under this Act.

1967, c.19, s.9; 1973-74, c.67, s.4; 1978, c.M-23, s.9.

Payment with return

10(1) Every insurance company shall, at the time of making a return, remit to the minister the amount of tax payable under this Act in respect of the period covered by the return.

(2) Where an insurance company or its chief agent or attorney, as the case may be, fails to pay any part of the tax payable by it under this Act, the company is liable to pay interest on the unpaid amount at the rate of six percent per annum from the fifteenth day of March of the year in which that amount became payable until the day of payment.

1967, c.19, s.10; 1978, c.M-23, s.10.

Records required and right to inspect

11(1) Every insurance company shall keep adequate books of account and records for the purposes of this Act and where the books or records kept by any insurance company are, in the opinion of the superintendent, inadequate for those purposes, he may prescribe the form of and the information to be contained in the books and records to be kept by that insurance company.

(2) The superintendent or a person authorized by him in writing for the purpose may visit the place of business in Canada of an insurance company where the records respecting the business in Saskatchewan are maintained, and examine the books and records of the company for the purpose of verifying any return required by this Act.

(3) Where the purpose of subsection (2) the superintendent or officer authorized by the superintendent visits the place of business of an insurance company, the company shall produce for examination by the superintendent or officer such books and records as are required of the company.

1967, c.19, s.11; 1973-74, c.67, s.5; 1978, c.M-23, s.11.

ASSESSMENTS, APPEALS AND REFUNDS

Power to make assessment

12(1) Where an insurance company fails to make a return under this Act or makes an insufficient or incorrect or false return, the superintendent may make or cause to be made such investigation or inquiry respecting the premium income of the insurance company as he considers necessary; and thereafter he may make his own valuation of the premium income of the insurance company and proceed to assess and tax the income on the basis of that valuation and notify the insurance company in writing of the tax to be assessed.

(2) Upon giving an insurance company a notice of an assessment and tax payable under subsection (1), the amount of tax becomes due and payable forthwith by the insurance company.

1967, c.19, s.12; 1973-74, c.67, s.6; 1978, c.M-23, s.12.

Examination of returns and assessment thereof

13(1) The superintendent shall cause all returns received by him to be examined as soon as practicable after receipt; and upon completion of the examination of an insurance company's return the superintendent shall, by assessment, verify or alter the amount of the tax as estimated by the insurance company in the return, and shall give a notice of the assessment to the insurance company, which notice shall be deemed to be given on the day on which it is mailed.

(2) An additional amount of tax found due over the estimated amount, as shown by the notice of assessment, together with interest as specified in section 10, shall be paid by the insurance company to the superintendent not later than one month after the last day of the month in which the notice of assessment is given.

1967, c.19, s.13; 1973-74, c.67, s.6; 1978, c.M-23, s.13.

Refund of overpayment

14(1) Where the examination of a return discloses that an overpayment has been made by an insurance company, the superintendent shall advise the minister of that fact giving particulars thereof and the minister shall cause a refund of the amount so overpaid to be made to the insurance company from the consolidated fund, except that, where any further tax payable by that insurance company is due or accruing due, the amount so overpaid shall, to the extent thereof, be applied in satisfaction of that tax, and notice thereof shall be given to the insurance company, accompanied by the refund of any remainder of the amount overpaid that is not so applied.

(2) A refund under this section may be made with the notice of assessment, or after giving the notice of assessment.

1967, c.19, s.14; 1973-74, c.67, s.7; 1978, c.M-23, s.14.

Power to reassess

15 Notwithstanding any prior assessments, or if no assessment has been made, an insurance company continues to be liable for any tax and to be assessed therefor, and the superintendent may at any time assess any insurance company for tax, interest and penalties, and may:

(a) at any time, if the insurance company has made a misrepresentation or committed a fraud in making its return or supplying information under this Act; and

(b) within six years from the day of the original assessment in any other case;

reassess or make additional assessments upon any insurance company for tax, interest and penalties.

1967, c.19, s.15; 1973-74, c.67, s.8; 1978, c.M-23, s.15.

Appeal to Board of Revenue Commissioners

16(1) Except as otherwise provided in this Act, an insurance company that objects to the amount at which it is assessed, or that considers that it is not liable to taxation, may, within one month after the date of the giving of the notice of assessment provided for in this Act, serve a notice of appeal upon the Board of Revenue Commissioners.

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(2) The notice of appeal shall be in writing and shall be mailed by registered post addressed to the Secretary, Board of Revenue Commissioners, Regina, Saskatchewan.

(3) The notice shall set out clearly the reasons for appeal and all facts relative thereto.

(4) Upon receipt of the notice the Board of Revenue Commissioners shall duly consider the matter and affirm or amend the assessment of the minister and forthwith notify the appellant of its decision by registered post.

1967, c.19, s.16; 1978, c.M-23, s.16.

Appeal from decision of Board

17 An appeal from a decision of the Board of Revenue Commissioners and any further appeal shall be subject to and governed by sections 47 and 48 of *The Department of Finance Act*.

1967, c.19, s.17; 1973-74, c.67, s.9; 1978, c.M-23, s.17.

Due date of tax not affected by appeal

18 Neither the giving of a notice of appeal by an insurance company nor a delay in the hearing of the appeal affects in any way the due date, the interest or penalties, or any liability for payment provided by this Act in respect of a tax that is the subject matter of the appeal, or delays in any way the collection of the tax; but, in the event that the tax is set aside or reduced on appeal, the minister shall refund to the insurance company the amount of the tax or excess tax, as the case may be, paid by it, and the amount of any additional interest or penalty imposed and paid on the tax or excess tax.

1967, c.19, s.18; 1978, c.M-23, s.18.

RECOVERY OF TAXES**Tax constitutes a lien**

19(1) The tax imposed or assessed under this Act forms a lien and charge in favour of Her Majesty in right of Saskatchewan on the entire assets of the insurance company including any assets in the hands of a trustee and has priority over all other claims of every person, except claims secured by registered liens and charges or encumbrances thereon registered prior to the imposition or assessment.

(2) The liens and charges created by this section and their priority shall not be lost or impaired by any neglect, omission or error of the superintendent, or of any agent or officer of the Government of Saskatchewan or by the taking or failure to take proceedings to recover the taxes due, or by the tender or acceptance of a partial payment of the taxes, or by want of registration.

1967, c.19, s.19; 1973-74, c.67, s.10; 1978, c.M-23, s.19.

Filing of certificate

20(1) Where default is made in the payment of any part of the tax that is due and payable under this Act, the superintendent may issue his certificate stating that the tax was assessed, the amount thereof remaining unpaid, including interest and penalties, and the name of the insurance company by whom it is payable.

(2) The certificate may be filed at any judicial centre with the local registrar of the Court of Queen's Bench or with the local clerk of the district court, as the case may require, and when so filed has the same force and effect and all proceedings may be taken thereon as if the certificate were a judgment for the recovery of a debt of the amount specified in the certificate.

(3) All reasonable costs and charges attendant upon the filing of a certificate are recoverable in like manner as the amount stated in the certificate.

1967, c.19, s.20; 1973-74, c.67, s.10; 1978,
c.M-23, s.20.

Demand on third party

21(1) Where a person is indebted or is about to become indebted to an insurance company that is liable for any tax, interest, penalties or costs under this Act, the minister may, by letter, delivered personally or sent by registered mail to the person, demand that all or part of the moneys payable by that person to the insurance company, be paid over to the superintendent on account of the liability of the insurance company under this Act.

(2) The receipt of the superintendent for moneys paid under subsection (1) constitutes a good and sufficient discharge of the liability of the person indebted to such insurance company to the extent of the amount stated in the receipt.

(3) Every person who, after receiving a demand pursuant to this section, wholly or partially discharges his liability to an insurance company liable for any tax, interest, penalties or costs under this Act, is personally liable to Her Majesty in right of Saskatchewan to the extent of the liability so discharged as between him and the insurance company or to the extent of the liability of the insurance company for taxes, interest, penalties and costs, whichever is the lesser amount.

1967, c.19, s.21; 1973-74, c.67, s.10; 1978,
c.M-23, s.21.

Default in payment of taxes

22 In case of default of payment of the tax imposed by this Act, the tax may be levied with costs by distress upon the goods and chattels wherever found of the insurance company liable therefor, under a warrant signed by the superintendent directed to a sheriff, and in such case the sheriff shall realize the amount of the tax in arrears and all costs by sale of those goods and chattels or so much thereof as may be necessary to satisfy the warrant and costs.

1967, c.19, s.22; 1973-74, c.67, s.10; 1978,
c.M-23, s.22.

Exercise of recovery powers

23 The powers conferred by this Act for the recovery of taxes by filing a certificate, by distress and by demand under section 21, may be exercised separately or concurrently or cumulatively, and the liability of an insurance company for the payment of the tax under this Act is not affected in any way by the fact that a fine or penalty has been imposed on or paid by it in respect of a contravention of this Act.

1967, c.19, s.23; 1978, c.M-23, s.23.

OFFENCES AND PENALTIES

Failure to register under section 3

24 Every insurance company that fails to comply with section 3 is guilty of an offence against this Act and liable on summary conviction to a fine of not less than \$10 or more than \$200.

1967, c.19, s.24; 1978, c.M-23, s.24.

Failure to make returns under section 6 or 7 or to remit tax

25 Every insurance company that or person who fails to make or submit a return pursuant to section 6 or 7 or to remit the amount of the tax pursuant to section 10 within the time prescribed therefor is liable, in addition to any other penalty, to a penalty of five per cent of the amount of the tax payable by the insurance company or \$500, whichever is the lesser, and shall forthwith forward the amount of that penalty to the minister.

1967, c.19, s.25; 1978, c.M-23, s.25.

Non-compliance with section 11

26 For every default in complying with section 11, the insurance company and any person in default are each liable on summary conviction to a fine of not less than \$10 for each day during which the default continues.

1967, c.19, s.26; 1978, c.M-23, s.26.

Contravention of Act an offence

27 Every person who contravenes any provision of this Act or the regulations, other than sections 3 and 11 of this Act, is guilty of an offence and liable on summary conviction to a fine of not less than \$50 or more than \$500 and in default of payment to imprisonment for a term not exceeding three months.

1967, c.19, s.27; 1978, c.M-23, s.27.

False statement

28 Every person who makes a false statement in any form or return submitted by him under this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not less than \$100 or more than \$500 and in default of payment to imprisonment for a term not exceeding three months.

1967, c.19, s.28; 1978, c.M-23, s.28.

Liability of corporation officers

29 Where a corporation is guilty of an offence under this Act, an officer, director or agent of corporation who directed, authorized, assented to or acquiesced or participated in the commission of the offence is a party to and guilty of the offence.

1967, c.19, s.29; 1978, c.M-23, s.29.

Notices in writing

30(1) Every notice and every demand that the superintendent or an officer is authorized or required to give or to make on any insurance company or person under this Act shall be in writing directed to the company or person, and shall be deemed to be sufficiently given or made if it is delivered personally to a director or officer of the company or to the person or if it is delivered at or is sent by registered mail to the address of the company or person as stated in its or his last return made under this Act or as last known to the superintendent.

(2) Service of a notice or demand shall be sufficiently proved by the affidavit of the person by whom the notice or demand delivered or mailed, with a copy or duplicate of the notice or demand attached to the affidavit as an exhibit thereto and, in case of service by registered mail, the postmaster's receipt for the envelope containing the notice or demand shall also be attached as an exhibit to the affidavit.

1967, c.19, s.30; 1973-74, c.67, s.10; 1978, c.M-23, s.30.

Onus of proof

31(1) In a prosecution for failure to submit a return or for failure to pay the tax or to forward a penalty imposed by section 25 or to pay any interest payable under section 10, the onus of proving that the return was submitted or that the tax, penalty or interest was paid or forwarded, as the case may be, as required by this Act, is upon the accused.

(2) An affidavit by an officer of the public service of the Government of Saskatchewan sworn before any commissioner for oaths or other person authorized to take affidavits that he has charge of the appropriate records and that after careful examination and search of those records he has been unable to find in any given case that a return or remittance required by this Act has been received by the minister or in the Department of Finance or by the superintendent is *prima facie* evidence that the required return or remittance has not been received.

1967, c.19, s.31; 1973-74, c.67, s.11; 1978, c.M-23, s.31.

Limitation of prosecutions

32 No prosecution for a violation of any provision of this Act or the regulations shall be commenced after six years from the date of the violation.

1967, c.19, s.32; 1978, c.M-23, s.32.

GENERAL

Delegation

33 The superintendent may authorize any officer of the Department of Finance to perform and exercise such of the duties imposed and powers conferred by this Act upon the superintendent as may, in the opinion of the superintendent, be conveniently performed or exercised by that officer, and the performance or exercise of those duties or powers by the officer so authorized shall be of the same force and effect as if they were performed or exercised by the superintendent.

1973-74, c.67, s.12; 1974-75, c.49, s.5; 1978, c.M-23, s.33.

Regulations

34 For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make such regulations as are ancillary thereto and are not inconsistent therewith; and every regulation made under and in accordance with the authority granted by this section has the force of law.

1967, c.19, s.34; 1978, c.M-23, s.34.

The Crown bound

35 With respect to Her Majesty's engaging in and carrying on business under *The Saskatchewan Government Insurance Act* and with respect to the scheme of insurance provided under *The Automobile Accident Insurance Act* Her Majesty is bound by this Act.

1967, c.19, s.35; 1978, c.M-23, s.35.