

# BILL

No. 128

## An Act to amend *The Provincial Sales Tax Act*

(Assented to \_\_\_\_\_)

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 Provincial Sales Tax Amendment Act, 2018*.

### RSS 1978, c P-34.1 amended

2 *The Provincial Sales Tax Act* is amended in the manner set forth in this Act.

### Section 3 amended

3(1) **Paragraph 3(1)(c.4)(i)(D) is repealed and the following substituted:**

“(D) an agreement under which the person giving the right to use the tangible personal property supplies a person to operate, or to direct or oversee the operation of, the tangible personal property”.

(2) **Subsection 3(1.1) is repealed and the following substituted:**

“(1.1) For the purpose of the definition of ‘vendor’ and subject to the regulations, a retail sale in the province includes a retail sale of tangible personal property or of a taxable service by a person who does not otherwise carry on business in Saskatchewan, if the tangible personal property or the taxable service is acquired for use or consumption in or relating to Saskatchewan”.

### Section 5 amended

4(1) **Subsection 5(6.2) is amended in the portion preceding clause (a) by striking out “subclause 3(1)(k)(xix)” and substituting “subclause 3(1)(k)(xvii) or (xix)”.**

(2) **Subsection 5(6.3) is amended by striking out “subclause 3(1)(k)(xix)” and substituting “subclauses 3(1)(k)(xvii) and (xix)”.**

(3) **The following subsection is added after subsection 5(9.2):**

“(9.3) Notwithstanding subsections (1), (2), (9) and (9.1), but subject to the regulations, every person residing or ordinarily resident or carrying on business in Saskatchewan who possesses or acquires equipment for his or her consumption or use shall pay tax on the consumption or use of that equipment as determined in the manner prescribed in the regulations”.

(4) **Subsection 5(21.21) is amended by striking out “as defined in *The Used Light Vehicles (Provincial Sales Tax) Exemption and Remission Regulations*” and substituting “during the period commencing on April 1, 2017 and ending on April 10, 2018”.**

(5) **Subsection 5(21.6) is amended by striking out “Subsection (21.1)” and substituting “Subject to the regulations, subsection (21.1)”.**

**Section 8 amended**

**5 Subsection 8(1) is amended:**

- (a) **by adding the following clause after clause (p):**  
“(p.1) feminine hygiene products”;
- (b) **by adding the following clause before clause (cc):**  
“(bb.3) naloxone, and any other non-prescription drug as set out in paragraph 2(e) of Part I of Schedule VI of the *Excise Tax Act* (Canada), for use in life-threatening circumstances”;
- (c) **by adding the following clause after clause (gg):**  
“(gg.1) precious metals purchased as financial instruments”; **and**
- (d) **by adding the following clause after clause (gg.1):**  
“(gg.2) prepared food and beverages sold by charitable or non-profit organizations at a community concession in the circumstances prescribed in the regulations”.

**New section 8.11**

**6 The following section is added after section 8.1:**

**“Refunds and refund applications**

**8.11(1)** If a person, vendor, consumer or user believes that he or she has made an overpayment of tax pursuant to this Act, he or she may do one or more of the following:

- (a) apply to the minister for a refund;
  - (b) whether or not he or she has applied to the minister for a refund, commence an action in the Court of Queen’s Bench.
- (2) The person, vendor, consumer or user applying for a refund pursuant to clause (1)(a) shall apply in a form acceptable to the minister and include:
- (a) all the documents or information the minister requires to be satisfied of the person’s, vendor’s, consumer’s or user’s claim to a refund; and
  - (b) evidence satisfactory to the minister that any returns required to be filed pursuant to this Act were filed.
- (3) The minister shall respond to the application mentioned in subsection (2) within 120 days after receiving the application.
- (4) The minister may, with respect to the application mentioned in subsection (2):
- (a) allow the claim, in part or in whole; or
  - (b) deny the claim.
- (5) If the minister allows the claim, in part or in whole, pursuant to clause (4)(a), the minister may pay interest in accordance with clause 56(1)(b) of *The Revenue and Financial Services Act*.

(6) If a person, vendor, consumer or user is dissatisfied with the decision of the minister made pursuant to subsection (4), he or she may commence an action in the Court of Queen's Bench.

(7) No action may be brought to recover an overpayment after the expiration of the period mentioned in clause 56(4)(b) of *The Revenue and Financial Services Act*.

(8) Any refund of an overpayment of tax or any interest that is paid pursuant to this section is to be paid out of the general revenue fund and is to be accounted for as a reduction of revenues received pursuant to this Act with respect to which the overpayment of tax or interest was made”.

**New section 29**

**7 Section 29 is repealed and the following substituted:**

**“Security for payment of tax in certain cases**

**29(1)** Subject to the regulations and subsection (4), where a person, whether ordinarily resident in Saskatchewan or not, in this section referred to as the contractor, enters into a contract with another person, in this section referred to as the principal, under which or in the carrying out of which items, including but not limited to those listed in clauses (a) to (c), will be used or consumed by the contractor in Saskatchewan, the contractor shall deposit with the minister a sum equivalent to 6% of the total amount to be paid by the principal under the contract, or provide to the minister a guarantee bond, satisfactory to the minister, in a penal sum equivalent to 6% of the total amount to be paid by the principal under the contract, to secure payment of the tax imposed by this Act with respect to any of the items in clauses (a) to (c), or any other item consumed or used by the contractor under or in the carrying out of the contract:

- (a) tangible personal property;
- (b) taxable services;
- (c) a contract of insurance.

(2) In a case to which subsection (1) applies, it is the duty of the principal to see that the contractor deposits a sum or provides a bond in accordance with that subsection, and if the principal fails to do so the principal is personally liable for payment of the tax imposed by this Act, together with penalty and interest with respect to the items mentioned in subsection (1) consumed or used by the contractor under or in the carrying out of the contract, and sections 60 to 65 of *The Revenue and Financial Services Act* apply, with any necessary modification, for the purpose of recovering the tax, together with penalty and interest, from the principal.

(3) A principal who is liable pursuant to subsection (2) for payment of a tax, together with penalty and interest, is entitled to be indemnified by any person who ought to have paid the tax, together with penalty and interest, and is entitled to withhold out of any indebtedness to that person a sum equivalent to the amount of the tax, together with penalty and interest, paid by the principal.

(4) The minister may provide a contractor mentioned in subsection (1) with a clearance letter, and in that case the contractor is not required to provide the security mentioned in that subsection”.

**New section 29.01**

**8 The following section is added after section 29:**

**“Principal’s obligation to ensure contractor has a valid licence**

**29.01(1)** Subject to the regulations, if a person, in this section referred to as the principal, enters into a contract with another person, whether ordinarily resident in Saskatchewan or not, in this section referred to as the contractor, under which the principal is liable to pay tax in accordance with this Act, it is the duty of the principal, before making payment of the tax to the contractor, to ensure that the contractor holds a valid licence issued pursuant to section 4 as of the date of the payment, and if the principal fails to do so and makes payment of tax to the contractor, the principal is personally liable for payment of an amount equal to any tax, together with penalty and interest, that the contractor fails to remit to the minister with respect to that contract, and sections 60 to 65 of *The Revenue and Financial Services Act* apply, with any necessary modification, for the purpose of recovering those amounts from the principal.

(2) A principal who is liable pursuant to subsection (1) for payment of an amount equal to the tax, together with penalty and interest, that the contractor failed to remit to the minister, is entitled to be indemnified by any person who ought to have remitted the tax, together with penalty and interest, and is entitled to withhold out of any indebtedness to that person a sum equivalent to the amount, together with penalty and interest, paid by the principal”.

**Section 43.1 amended**

**9 Subsection 43.1(2) is amended by striking out “subsection 29(5)” and substituting “subsection 29(4)”.**

**Section 43.2 amended**

**10 Subsection 43.2(3) is repealed.**

**New section 43.3**

**11 The following section is added after section 43.2:**

**“Limitation on prosecution**

**43.3** No proceeding to enforce any provision of this Act or the regulations is to be commenced more than six years after the facts on which the proceeding is based first came to the knowledge of the minister”.

**Section 44 amended**

**12 Subsection 44(2) is amended:**

**(a) by adding the following clause after clause (j.2):**

“(j.21) for the purposes of subsection 5(9.3), respecting the manner of determining the tax payable on the consumption or use of equipment”;

**(b) in clause (u) by striking out “and (21.3)” and substituting “, (21.3) and (21.6)”;**

**(c) by adding the following clause after clause (u):**

“(u.01) prescribing the circumstances for the purposes of clause 8(1)(gg.2)”;

**(d) by adding the following clause after clause (u.1):**

“(u.11) for the purposes of subsection 29.01(1), prescribing the persons, vendors, consumers or users to whom, the contracts to which and the circumstances in which, that subsection applies”.

**Coming into force**

13(1) Subject to subsections (2) to (8), this Act comes into force on assent, but is retroactive and is deemed to have been in force on and from April 11, 2018.

(2) Subsection 3(1) comes into force on assent, but is retroactive and is deemed to have been in force on and from January 1, 1995.

(3) Subsections 3(2), 4(1) and (2) and sections 7 and 9 come into force on assent, but are retroactive and are deemed to have been in force on and from April 1, 2017.

(4) Subsection 4(3) and clause 12(a) come into force on proclamation.

(5) Clause 5(a) comes into force on assent, but is retroactive and is deemed to have been in force on and from July 1, 2015.

(6) Clauses 5(b) and (d) and clause 12(c) come into force on assent, but are retroactive and are deemed to have been in force on and from December 1, 2017.

(7) Clause 5(c) comes into force on assent, but is retroactive and is deemed to have been in force on and from September 1, 2016.

(8) Section 6 comes into force on assent, but is retroactive and is deemed to have been in force on and from January 1, 2014.

SECOND SESSION

**Twenty-eighth Legislature**

SASKATCHEWAN

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**B I L L**

No. 128

An Act to amend *The Provincial Sales Tax Act*

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Received and read the

First time

Second time

Third time

And passed

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Honourable Donna Harpauer

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