

## CHAPTER 225

## Logging Tax Act

Title.

1. This Act may be cited as the *Logging Tax Act*. 1953 (2nd Sess.), c. 33, s. 1.

Interpretation.

2. In this Act, unless the context otherwise requires,

“Commissioner” means the Commissioner of Income Tax, or such other person as may be designated by the Minister;

“income derived from logging operations” by a person in any taxation-year means

(a) where standing timber is cut in the Province by the person or logs cut from standing timber in the Province have been acquired by the person, if the logs thus obtained are sold by him in the Province prior to or on delivery to a sawmill, pulp or paper plant or other place for processing logs, the net profit for that year derived by him from the acquisition and sale or acquisition, transportation and sale, of the logs; and

(b) where standing timber in the Province, or the right to cut standing timber in the Province, is sold by the person on a stumpage or royalty basis or otherwise, the net profit for that year from the acquisition of the standing timber or the right to cut the standing timber, and the sale of the timber; and

(c) where standing timber is cut in the Province by the person or logs cut from standing timber in the Province have been acquired by the person, if the logs thus obtained are exported from Canada prior to sale or delivery to a sawmill, pulp or paper plant or other place for processing logs, or if the logs are exported from the Province and sold prior to or on delivery to a sawmill, pulp or paper plant or other place for processing logs, the net profit for that year derived by him from the acquisition or acquisition and transportation of the logs, computed from the value of the logs exported during the year, as determined by the Minister, minus the aggregate of the costs of acquiring, cutting, transporting and selling the logs; and

(d) where standing timber is cut in the Province by the person or logs cut from standing timber in the Province have been acquired by the person, if the person operates a sawmill, pulp or paper plant or other place for processing logs in Canada wherein the logs are processed, the net profit for that year from all sources, minus the aggregate of

(i) the returns received by him by way of dividends, interest or other like payments from stocks, shares,

bonds, debentures, loans or other like investments; and

- (ii) the net profit, if any, derived by him from, and attributable in accordance with sound accounting principles to, the carrying on of any business, or derived from and so attributable to any source, other than logging operations and the transportation, processing and sale (or the transportation, processing or sale) of logs and standing timber, and other than as a return on investments mentioned in paragraph (i); and
- (iii) the net profit, if any, derived by him under clauses (a), (b), and (c); and
- (iv) an amount, by way of return on capital employed by him in processing logs, equal to eight per centum of the original cost to him of the depreciable assets including machinery, equipment, plant, buildings, works and improvements, used by him in the processing of logs, but not in excess of sixty-five per centum, nor less than

(A) fifty per centum where the logs are processed or manufactured into pulp or paper; or

(B) thirty-five per centum where the logs are processed or manufactured into lumber,

of that portion of the total net income from all sources remaining after deducting therefrom the amounts specified in paragraphs (i), (ii), and (iii);

but where the person cuts standing timber or acquires logs cut from standing timber in a Province other than the Province of British Columbia, the income derived from logging operations of the person in British Columbia for that year is that amount which bears to the total income derived from logging operations by the person in Canada, the same proportion that the quantity of logs cut or acquired by the person and originating in the Province of British Columbia bears to the total quantity of logs cut or acquired by the person in Canada in that year;

“lumber” includes all forms of processed or manufactured logs or log products, but not pulp and paper;

“Minister” means the Minister of Finance;

“person” includes any individual, and any partnership, syndicate, association, corporation, agent, or trustee;

“pulp and paper” includes all forms of processed or manufactured wood-pulp, whether ultimately manufactured into paper or otherwise;

“taxation-year” means the fiscal period, not exceeding twelve months, for which the accounts of the business of a taxpayer have been or are ordinarily made up and accepted for purposes of assessment under this Act, and in the absence of such an established practice the fiscal period is that which the taxpayer adopts, except that if a taxpayer purports to change his usual and accepted fiscal period, the Minister may, in his discretion, disallow such change;

“taxes” includes all taxes on income imposed, assessed, assessable, or payable under this Act, and all penalties and interest that are, or may be, added to taxes under this Act;

“taxpayer” means any person who engages in logging operations in British Columbia. 1953 (2nd Sess.), c. 33, s. 2; 1955, c. 79, ss. 2-4; 1957, c. 59, ss. 2, 3.

Imposition  
of tax.

3. (1) Every taxpayer shall for each taxation-year pay a tax of ten per centum calculated on his income derived from logging operations in British Columbia in such year that is in excess of twenty-five thousand dollars, or where the taxation-year is less than twelve months, the proportion of the twenty-five thousand dollars that the number of days in the taxation-year is to the number of days in the whole year.

Operations  
by same  
person.

(2) For the purposes of this section, all logging operations owned, leased, worked, or operated by the same person, or under the same general control, or the income of which accrues to the same person, shall, for the purpose of determining liability to taxation hereunder, be deemed to be, and be dealt with, as one and the same logging operation, and not as separate logging operations.

Affiliated  
corporations.

(3) In the case of logging operations carried on by two or more affiliated or associated corporations under the same general control, or the income of which accrues for the benefit of the same shareholders, the income from the various operations shall be combined and dealt with as the income of one and the same taxpayer. 1953 (2nd Sess.), c. 33, s. 3; 1957, c. 59, s. 4.

Dealings  
at arm's  
length.

4. (1) Where a taxpayer has purchased anything from a person with whom he was not dealing at arm's length at a price in excess of the fair market value, the fair market value thereof, as determined by the Minister, shall, for the purpose of computing the taxpayer's income under this Act, be deemed to have been paid or to be payable therefor.

(2) Where a taxpayer has sold anything to a person with whom he was not dealing at arm's length at a price less than the fair market value, the fair market value thereof, as determined by the Minister, shall, for the purpose of computing the taxpayer's income from the business, be deemed to have been received or to be receivable therefor.

(3) Where a taxpayer has paid, or agreed to pay, to any person with whom he was not dealing at arm's length as price, royalty, rental, or other payment for use or reproduction of any property, or for other services,

an amount computed at a rate higher than at which similar payments by other persons in the same kind of business are computed, an amount computed at the rate at which similar payments are made by the other persons shall, for the purpose of computing the taxpayer's income under this Act, be deemed to have been the amount that was paid or is payable therefor.

(4) Where a taxpayer has received, or agreed to receive, from any person with whom he was not dealing at arm's length as price, royalty, rental, or other payment for use or reproduction of any property, or for other services, an amount computed at a rate lower than at which similar payment by other persons in the same kind of business are computed, an amount computed at the rate at which similar payments are made by the other persons shall, for the purpose of computing the taxpayer's income under this Act, be deemed to have been the amount that was received or is receivable therefor.

Winding up.

(5) Where a taxpayer, being a corporation, has directly or indirectly distributed to its shareholders any of its property, either on winding up or otherwise, for no consideration or for consideration below the fair market value, as determined by the Minister, if the sale thereof at the fair market value would have increased the taxpayer's income under this Act, it shall be deemed, for the purpose of determining such income, to have sold the property during the taxation-year and to have received therefor the fair market value.

Defines "arm's length."

(6) For the purpose of this section,

- (a) a corporation and a person or one of several persons by whom it is directly or indirectly controlled;
- (b) corporations controlled directly or indirectly by the same persons; or
- (c) persons connected by blood relationship, marriage, or adoption

shall, without extending the meaning of the expression "to deal with each other at arm's length," be deemed not to deal with each other at arm's length. 1953 (2nd Sess.), c. 33, s. 4.

Reporting.

5. (1) Every person who is engaged in logging operations in British Columbia at the commencement of this Act, or has been so engaged in a period covered by this Act, or who thereafter is so engaged, shall forthwith notify the Commissioner of the fact that he is or has been engaged in such operations, and upon his discontinuance of such operations shall notify the Commissioner of such discontinuance.

Penalty.

(2) Every person who fails to comply with subsection (1) is guilty of an offence against this Act and liable, on summary conviction, to a penalty of not less than ten dollars nor more than two hundred dollars. 1953 (2nd Sess.), c. 33, s. 5.

Return of income.

6. Every taxpayer shall, within six months after the close of his taxation-year, without any notice or demand, deliver to the Commissioner

a return of his income during the taxation-year, including an estimate of the amount of tax payable. 1953 (2nd Sess.), c. 33, 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 a taxpayer who has failed to make a return under this Act shall make the required return. 1953 (2nd Sess.), c. 33, s. 7.

Power to demand information or return.

**8.** (1) If the Commissioner desires information or a return from a person who has not made a return or a complete return, he may, by registered letter, demand from the person such information or return.

(2) Such person shall deliver to the Commissioner the information or return required within thirty days after the date of the mailing of the letter making the demand.

Affidavit of Commissioner.

(3) In proceedings under this Act, an affidavit by the Commissioner in which are stated the facts necessary to establish compliance by him with the provisions of this section or default by the person on whom a demand is made shall be admitted as evidence in any Court, and is prima facie proof of the facts stated.

(4) Such affidavit shall have attached thereto as an exhibit a copy of the letter making the demand. 1953 (2nd Sess.), c. 33, s. 8.

Form of return.

**9.** (1) Every return required to be made under this Act shall be in the form prescribed by the Commissioner, and shall set out fully the information that the form calls for; and the person required to make the return shall cause it to be delivered to the Commissioner within the time limited for the making of the return.

Extension.

(2) The Commissioner may at any time extend the time for the making of a return.

Corporate returns.

(3) Every return in the case of a corporation or partnership shall be made and signed by an officer or member having personal knowledge of the affairs of the corporation or partnership. 1953 (2nd Sess.), c. 33, s. 9.

Power to make assessment.

**10.** The Commissioner is not bound to accept as correct the return made by any person, but if the Commissioner thinks it necessary or expedient, or if he suspects that a person who has not made a return is liable to assessment, he or any officer designated by him shall make an independent investigation as to the income of that person, and for that purpose may enter upon any premises and may examine any property thereon, and shall have access to and may examine and take copies of and extracts from all books, accounts, vouchers, and documents of that person, and may make his own valuation and assessment of the taxable amount of the income; and the Commissioner or officer may in any case examine the person on oath or otherwise, and upon request the person shall attend and submit himself to examination. 1953 (2nd Sess.), c. 33, s. 10.

Power to make inquiry.

**11.** An officer authorized in writing by the Minister may make such inquiry as he deems necessary for ascertaining the income of a taxpayer, and for the purpose of the inquiry such officer shall have all the powers and authority conferred upon Commissioners under the *Public Inquiries Act*. 1953 (2nd Sess.), c. 33, s. 11.

Power to prescribe books, etc.

**12.** (1) Every taxpayer shall keep adequate books of account and records for the purposes of this Act, and if the books or records kept by any taxpayer are, in the opinion of the Commissioner, inadequate for those purposes, he may prescribe the books and records to be kept by that person.

Power to make assessment on failure to produce books.

(2) Where the books of account and records kept by a taxpayer are, in the opinion of the Minister, inadequate for the purposes of this Act, or where a taxpayer, on the request of the Commissioner, fails or refuses to produce his books of account or records for examination by the Commissioner, or where a taxpayer alleges that the books of account or records kept by him have been lost or destroyed, the Minister may direct the Commissioner to make his own valuation and assessment of the taxable amount of the income of that person. 1953 (2nd Sess.), c. 33, s. 12.

Duty of certain persons to give information.

**13.** Every person who, in whatever capacity acting, is in receipt of any money, thing of value, or profits or gains arising from any source of or belonging to a taxpayer shall, when required to do so by notice from the Commissioner, prepare and deliver to the Commissioner any relevant information required within thirty days after the date of the mailing of such notice. 1953 (2nd Sess.), c. 33, s. 13.

Disclosure.

**14.** No person having the custody or control of any return, form, or other document or papers filed under this Act shall communicate, or allow to be communicated, to any person not legally entitled thereto any information obtained under this Act, or allow any person not legally entitled thereto to inspect or have access to any return made under this Act. 1953 (2nd Sess.), c. 33, s. 14.

*Payment of Tax*

Taxes due.

**15.** (1) Taxes imposed by this Act shall be deemed to be due on the last day of the taxation-year of the taxpayer for which such taxes are imposed.

Payment.

- (2) Every taxpayer shall pay on account of tax,
- (a) not later than the close of the taxation-year in respect of which the tax is payable, an amount equal to one-half of the tax as estimated by him on the income derived from logging operations for the last preceding taxation-year, or for the taxation-year in respect of which the tax is payable, at the rate currently applicable under this Act;
  - (b) not later than the last day of the third month following the month in which the taxation-year in respect of which the tax is

payable closed, an amount equal to one-half the unpaid balance of the tax so estimated; and

- (c) at the time of making the return required under section 6, the balance of any tax payable as estimated by the taxpayer in such return.

**Interest.**

(3) Where the amount paid under subsection (2) is less than the amount of tax payable for the taxation-year, the taxpayer shall pay interest on the difference between the two amounts from the expiration of the time for filing the return to the date of payment at six per centum per annum.

(4) Where a taxpayer being required to make a payment by subsection (2) has failed to pay all or any part thereof as required, in addition to interest payable under subsection (3), he shall pay interest on the amount he failed to pay at six per centum per annum from the day on which he was required to make the payment to the day of payment or the beginning of the period in respect of which he became liable to pay interest thereon under subsection (3), whichever is earlier.

(5) For the purposes of subsection (4), the taxpayer shall be deemed to have been liable to pay a part or instalment under subsection (2) computed by reference to the tax as estimated by him on the income for

(a) the last preceding taxation-year; or

(b) the taxation-year in respect of which the tax is payable, whichever is the lesser. 1953 (2nd Sess.), c. 33, s. 15.

**Duty of trustee to pay.**

**16.** Every person who is required by section 7 to make a return of income shall, to the extent of the property or business that he is administering, managing, winding up, or otherwise controlling or dealing with, pay any tax and interest and penalties assessed and levied with respect to such income before making any distribution of such property or business. 1953 (2nd Sess.), c. 33, s. 16.

**Duty of trustee, etc., to obtain certificate before distribution.**

**17.** Every trustee in bankruptcy, assigner, administrator, and other like person, before distributing any assets under his control, shall obtain a certificate from the Commissioner certifying that no unpaid assessment of tax, interest, and penalties properly chargeable against the person, property, or business, as the case may be, remains outstanding. 1953 (2nd Sess.), c. 33, s. 17.

*Assessment*

**Examination of returns.**

**18.** The Commissioner shall cause all returns received by him to be examined as soon as practicable after receipt. 1953 (2nd Sess.), c. 33, s. 18.

**Notice of assessment.**

**19.** (1) After completion of the examination of a taxpayer's return, the Commissioner shall, by assessment, verify or alter the amount of the tax as estimated by the taxpayer in his return, and shall give a notice of the assessment to the taxpayer, which notice shall be dated as of the day on which it is mailed.

Payment of deficiency.

(2) Any additional amount of tax due over the estimated amount, as shown by the notice of assessment, shall be paid by the taxpayer to the Commissioner not later than one month after the last day of the month in which the notice of assessment is given. 1953 (2nd Sess.), c. 33, s. 19.

Continuing liability for tax.

**20.** Notwithstanding any prior assessments, or if no assessment has been made, a taxpayer shall continue to be liable for any tax and to be assessed therefor, and the Commissioner may at any time assess any taxpayer for tax, interest, and penalties, and may

(a) at any time, if the person has made any misrepresentation or committed any fraud in making his 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 taxpayer for tax, interest, and penalties. 1953 (2nd Sess.), c. 33, s. 20.

Refund of overpayment.

**21.** (1) Where the examination of a taxpayer's return discloses that an overpayment has been made by the taxpayer, the Minister, on the certificate of the Commissioner as to the facts, shall cause a refund of the amount so overpaid to be made to the taxpayer from the Consolidated Revenue Fund, except that, where any further tax payable by that taxpayer is due or accruing due, the amount so overpaid shall, to the extent thereof, be applied in satisfaction of such tax, and notice thereof shall be given to the taxpayer, accompanied by the refund of any remainder of the amount overpaid remaining unapplied.

(2) A refund under this section may be made with the notice of assessment, or after giving the notice of assessment. 1953 (2nd Sess.), c. 33, s. 21.

Giving notice of assessment.

**22.** (1) Every notice of assessment under this Act shall be in writing, and is sufficiently given if it is delivered to the taxpayer personally, or if it is delivered at or is mailed addressed to the address of the taxpayer as stated in his last return made under this Act or as last known to the Commissioner. If the address is not known to the Commissioner, the notice of assessment may be mailed addressed to the taxpayer at the post office nearest to the place where the income arose. The notice of assessment shall, for all purposes of this Act, be deemed to be given to the taxpayer on the day on which it is so delivered or mailed.

Mode of assessment.

(2) Subject to any appeal provided by this Act, the entry by the Commissioner, or by a person under his direction, of particulars of the assessment and taxation of any person in respect of any income pursuant to this Act in any book or document kept by the Commissioner, or the giving of a notice of assessment to a person pursuant to this Act, constitutes due assessment and taxation of that person for all purposes of this Act in respect of the income set out in the entry or notice. 1953 (2nd Sess.), c. 33, s. 22.

*Appeals and Procedure*

Appeal to  
Minister.

**23.** (1) Except as otherwise provided in this Act, a person who objects to the amount at which he is assessed, or who considers that he is not liable to taxation, may personally or by his agent, within sixty days after the date of the giving of the notice of assessment provided for in this Act, serve a notice of an appeal therefrom to the Minister by mailing it by registered mail addressed to the Commissioner of Income Tax, Victoria, British Columbia.

Notice of  
appeal.

(2) The notice shall state the name and address of the taxpayer, the amount of the tax, and date of the notice of assessment, and shall set out clearly and fully the reasons for the appeal and the facts on which it is based.

Decision  
on appeal.

(3) Upon receipt of the notice of appeal, the Commissioner shall place the notice before the Minister, who shall consider it and the information and documents on file in the office of the Commissioner, and shall affirm or amend the assessment appealed from, and shall notify the appellant of his decision. 1953 (2nd Sess.), c. 33, s. 23.

Appeal  
to Judge.

**24.** (1) If the appellant is dissatisfied with the decision of the Minister, he may appeal therefrom to a Judge of the Supreme Court, or to a Judge of the County Court within the territorial limits of which the appellant resides or carries on business.

(2) The appellant shall, within sixty days after the date of the giving of the notice of the decision complained of, serve upon the Commissioner a written notice of his intention to appeal to a Judge of the Supreme Court or County Court, as the case may be, which notice shall be signed by the appellant or by his solicitor or agent, and shall set forth the grounds of the appeal; and the appellant shall file a copy of the notice in the office of the Registrar of the Court.

(3) Within fourteen days after the service upon the Commissioner of the notice of appeal, the appellant shall apply to the Judge for the appointment of a day for the hearing of the appeal, and shall serve upon the Commissioner, not less than fourteen days before the hearing, a written notice of the day appointed for the hearing.

(4) The Judge shall hear the appeal and the evidence adduced before him by the appellant and the Crown in a summary manner, and shall decide the matter of the appeal.

(5) Upon the request made to the Judge by any party to the appeal, the hearing may be held in camera.

(6) The Commissioner shall cause to be produced before the Judge on the hearing of the appeal all papers and documents in his possession affecting the matter of the appeal.

(7) The costs of the appeal shall be in the discretion of the Judge, and he may make an order respecting them in favour of or against the Crown, and may fix the amount thereof. 1953 (2nd Sess.), c. 33, s. 24.

Appeal  
to Court  
of Appeal.

**25.** An appeal lies from the decision of the Judge to the Court of Appeal upon any point of law raised upon the hearing of the appeal, and the rules governing appeals to that Court from a decision of a Judge of the Supreme Court or a Judge of a County Court, as the case may be, apply to appeals under this section. 1953 (2nd Sess.), c. 33, s. 25.

Irregularity  
in procedure.

**26.** An assessment shall not be varied or disallowed because of any irregularity, informality, omission, or error on the part of any person in the observation of any directory provision up to the date of the issuing of the notice of assessment. 1953 (2nd Sess.), c. 33, s. 26.

Due date  
of tax not  
affected by  
appeal.

**27.** Neither the giving of a notice of appeal by any taxpayer nor any delay in the hearing of the appeal shall in any way affect the due date, the interest or penalties, or any liability for payment provided by this Act in respect of any tax that is the subject-matter of the appeal, or in any way delay the collection of the tax; but, in the event of the tax being set aside or reduced on appeal, the Minister shall refund to the taxpayer the amount of the tax or excess tax paid by him, and of any additional interest or penalty imposed and paid on such tax or excess. 1953 (2nd Sess.), c. 33, s. 27.

#### *Recovery of Taxes*

Tax to con-  
stitute a lien.

**28.** (1) A tax imposed or assessed under this Act forms a lien and charge in favour of the Crown on the entire assets of the taxpayer's estate in the hands of any trustee, and has priority over all other claims of every person except claims secured by registered liens, charges, or encumbrances thereon.

Lien not lost  
by neglect.

(2) Subject to section 17, the liens and charges created by this section and their priority are not lost or impaired by any neglect, omission, or error of the Commissioner, or of any agent or officer, or by the taking or failure to take proceedings to recover the taxes due, or by the tender or acceptance of any partial payment of the taxes, or by want of registration. 1953 (2nd Sess.), c. 33, s. 28.

Notice of  
proceedings.

**29.** Before taking any proceedings for the recovery of a tax under this Act, the Commissioner shall give notice to the taxpayer of his intention to enforce payment, but failure to give the notice does not affect the validity of any proceedings taken for the recovery of a tax under this Act. 1953 (2nd Sess.), c. 33, s. 29.

Recovery  
by action.

**30.** The amount of a tax that is due and payable may be recovered by action in any Court as for a debt due to the Crown in right of the Province, and the Court may make an order as to the costs of such action in favour of or against the Crown. 1953 (2nd Sess.), c. 33, s. 30.

Filing of  
certificate.

**31.** Where default is made in the payment of a tax that is due and payable under this Act, or any part of the tax, the Commissioner may

issue his certificate stating that the tax was assessed, the amount thereof remaining unpaid (including interest and penalties), and the name of the person by whom it is payable, and may file the certificate with any District Registrar of the Supreme Court, or with the Registrar of any County Court, and when so filed the certificate shall be of the same force and effect, and all proceedings may be taken thereon as if it were a judgment of the Court for the recovery of a debt of the amount stated in the certificate against the person named therein. 1953 (2nd Sess.), c. 33, s. 31.

Demand on  
third party.

**32.** (1) Where the Commissioner has knowledge or suspects that a person is or is about to become indebted to a taxpayer, he may demand of that person that the moneys otherwise payable by him to the taxpayer be, in whole or in part, paid over to the Commissioner on account of the taxpayer's liability under this Act.

(2) The receipt of the Commissioner for moneys so paid constitutes a good and sufficient discharge of the liability of such person to the taxpayer to the extent of the amount referred to in the receipt.

(3) Any person discharging any liability to a taxpayer after receipt of a demand under this section is personally liable to the Crown to the extent of the liability discharged as between him and the taxpayer, or to the extent of the liability of the taxpayer for taxes and interest, whichever is the lesser amount. 1953 (2nd Sess.), c. 33, s. 32.

Distress.

**33.** (1) The Commissioner may, by himself or his agent, levy the amount of a tax that is due and payable, with costs, by distress of the goods and chattels of the person liable to pay the tax, or of any goods and chattels in his possession, wherever the same may be found within the Province, or of any goods and chattels found on his premises the property of or in the possession of any other occupant of the premises, and that would be subject to distress for arrears of rent due to a landlord; and the costs chargeable shall be those payable as between landlord and tenant.

(2) If distress is made for the recovery of a tax, the Commissioner or his agent shall, by advertisement posted up in at least three conspicuous public places in the locality where the sale of the property distrained is to be made, give at least ten days' public notice of the time and place of the sale and of the name of the taxpayer whose property is to be sold; and at the time named in the notice the Commissioner or his agent shall sell at public auction the property distrained, or so much thereof as may be necessary.

(3) If the property distrained is sold for more than the amount of the tax and costs, and if no claim to the surplus is made by any other person on the ground that the property sold belonged to him, or that he was entitled by lien or other right to the surplus, the surplus shall be paid over to the person in whose possession the property was when the distress was made, and his receipt shall be taken therefor.

(4) If a claim is made by the person for whose taxes the property was distrained, and the claim is admitted, the surplus shall be paid to the claimant, and his receipt shall be taken therefor.

(5) If the claim is contested, the surplus shall be retained by the Commissioner until the respective rights of the parties have been determined by action at law or otherwise. 1953 (2nd Sess.), c. 33, s. 33.

Powers exercisable.

**34.** The powers conferred by this Act for the recovery of taxes by action in Court, by filing a certificate, by distress, and by demand under section 32 may be exercised separately, or concurrently, or cumulatively; and the liability of a person for the payment of a tax under this Act shall not be affected in any way by the fact that a fine or penalty has been imposed on or paid by him in respect of a contravention of this Act. 1953 (2nd Sess.), c. 33, s. 34.

*Offences and Penalties*

Failure to make returns under s. 6.

**35.** Every taxpayer who fails to deliver a return under section 6 within the time prescribed therefor is liable to a penalty equal to five per centum of the amount of the tax payable by him, but the amount of the penalty in any case shall not exceed five hundred dollars. 1953 (2nd Sess.), c. 33, s. 35.

Failure to make returns under s. 7.

**36.** Every person who fails to deliver a return under section 7 within the time prescribed therefor is liable to a penalty of ten dollars for each day during which the default continues, or fifty dollars, whichever is less. 1953 (2nd Sess.), c. 33, s. 36.

Non-compliance with s. 8, 10, 12, or 13.

**37.** For every default in complying with section 8, 10, 12, or 13, the persons in default are each liable, on summary conviction, to a penalty of not less than ten dollars for each day during which the default continues. 1953 (2nd Sess.), c. 33, s. 37.

Violation of s. 14, 16, or 17.

**38.** Every person who violates the provisions of section 14, 16, or 17 is guilty of an offence and liable, on summary conviction, to a penalty not exceeding two hundred dollars. 1953 (2nd Sess.), c. 33, s. 38.

False returns.

**39.** Every person who makes, or assents or acquiesces in the making of, false or deceptive statements in a return to be filed under this Act, or a regulation made thereunder, or in a statement made pursuant to a demand by the Minister for information, is guilty of an offence and liable, on summary conviction, to a penalty of one hundred dollars, or, if the tax that should be shown by the return to be payable is more than fifty dollars, to a penalty of not less than one hundred dollars and not more than double the amount of the tax that should have been shown to be payable. 1953 (2nd Sess.), c. 33, s. 39.

Liability of corporation officers.

**40.** If a corporation is guilty of an offence under this Act, an officer, director, or agent of the corporation who directed, authorized, assented to, acquiesced, or participated in the commission of the offence is a party to and guilty of the offence. 1953 (2nd Sess.), c. 33, s. 40.

*Procedure*

Laying of  
information,  
and hearings.

**41.** (1) Any information or complaint under this Act may be laid or made by any person authorized thereunto by the Minister.

(2) Any information or complaint for contravening any of the provisions of this Act may be for one or more offences, and no information, complaint, warrant, conviction, or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

(3) Any complaint or information in respect of a contravention of this Act, or of a regulation made pursuant thereto, may be heard, tried, or determined by any Police or Stipendiary Magistrate or any Justice or Justices of the Peace if the accused is found or apprehended or is in custody within his or their territorial jurisdiction although the matter of the information or complaint did not arise within his or their territorial jurisdiction. 1953 (2nd Sess.), c. 33, s. 41.

Limitation.

**42.** Any information in respect of an offence against this Act shall be laid within six years from the time when the matter of the information arose. 1953 (2nd Sess.), c. 33, s. 42.

Fines part of  
Consolidated  
Revenue  
Fund.

**43.** All fines recovered under this Act shall be paid to the Minister, and shall form part of the Consolidated Revenue Fund. 1953 (2nd Sess.), c. 33, s. 43.

Notices in  
writing.

**44.** (1) Every notice, other than a notice of assessment, and every demand that the Minister, or the Commissioner, or any officer is authorized or required to give to or make on any person under the provisions of this Act shall be in writing directed to him, and is sufficiently given or made if it is delivered to him personally, or if it is delivered at or is mailed by registered mail addressed to his address as stated in his last return made under this Act or as last known to the Commissioner.

Proof of  
receipt.

(2) Prima facie proof of the receipt by any person of any notice or demand referred to in subsection (1) may be established in any Court by showing that the notice or demand was delivered or mailed in a manner provided in that subsection, and the burden of proof is upon the person seeking to establish the fact that the notice or demand was not received by him.

Affidavit.

(3) For the purpose of any prosecution or of any action or proceedings in respect of any matter arising under this Act, the facts necessary to establish the giving of any notice or the making of any demand, or to establish compliance on the part of the Commissioner or other officer with any provision of this Act, or to establish the failure of any person to comply with any provision of this Act, may be sufficiently proved in any Court by the production of an affidavit of the Commissioner or other officer of the Department of Finance setting out the facts. 1953 (2nd Sess.), c. 33, s. 44.

*Administration*Appoint-  
ments.

**45.** This Act shall be administered by the Commissioner of Income Tax or such other person who may be designated by the Minister, and there shall be appointed in the Department of Finance, under the provisions of the *Civil Service Act*, such other officers and employees as are considered necessary for the administration of this Act. 1953 (2nd Sess.), c. 33, s. 45.

Delegation  
of powers.

**46.** The Commissioner, with the approval of the Minister, 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 Commissioner as may, in the opinion of the Commissioner, 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 Commissioner. 1953 (2nd Sess.), c. 33, s. 46.

Regulations.

**47.** For the purpose of carrying into effect the provisions of this Act, the Lieutenant-Governor in Council may make such regulations, not inconsistent with the spirit of this Act, as are considered necessary or advisable, and for that purpose may provide for any proceeding, matter, or thing for which express provision has not been made in this Act, or for which only partial provision has been made, and such regulations shall have the same force and effect as if incorporated herein. 1953 (2nd Sess.), c. 33, s. 47.