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Bill 111

(Chapter 13 of the Statutes of Ontario, 2022)

An Act to amend the Fuel Tax Act and the Gasoline Tax Act with respect to a temporary reduction to the tax payable on certain clear fuel and on gasoline

The Hon. P. Bethlenfalvy
Minister of Finance

1st Reading	April 4, 2022
2nd Reading	April 7, 2022
3rd Reading	April 12, 2022
Royal Assent	April 14, 2022



EXPLANATORY NOTE

This Explanatory Note was written as a reader's aid to Bill 111 and does not form part of the law. Bill 111 has been enacted as Chapter 13 of the Statutes of Ontario, 2022.

SCHEDULE 1 FUEL TAX ACT

The Schedule amends the *Fuel Tax Act* to provide for a reduction of 5.3 cents per litre to the tax payable to the Minister by purchasers of clear fuel (with the exception of clear fuel that is received or used to operate railway equipment operated on rails in connection with a public transportation system). The reduction applies to tax that is payable during the period beginning on July 1, 2022 and ending on December 31, 2022, as well as to tax payable after that period if the clear fuel in respect of which the tax is payable was purchased by a retail dealer during that period. Amendments are also made to provide for distinct rules that apply where a collector, distributor, importer, retail dealer or wholesaler seeks to recover from the Minister an excess payment of tax on clear fuel that arose from paying more tax than the reduced amount. In particular, these rules deal with the deadline by which applications to be reimbursed in respect of such excess payment must be made and allow for retail dealers and wholesalers who are not collectors, distributors or importers to make such applications through the person to whom the payment giving rise to the excess payment was made. The Minister is provided with regulation-making authority to address any matters that may arise from the temporary reduction.

In addition, amendments are made to section 18 of the Act to allow the Minister to require that any retail dealer, wholesaler, distributor, importer or collector complete reports respecting fuel inventory.

SCHEDULE 2 GASOLINE TAX ACT

The Schedule amends the *Gasoline Tax Act* to provide for a reduction of 5.7 cents per litre to the tax payable to the Minister by purchasers of gasoline. The reduction applies to tax that is payable during the period beginning on July 1, 2022 and ending on December 31, 2022, as well as to tax payable after that period if the gasoline in respect of which the tax is payable was purchased by a retailer during that period. The reduction does not, however, apply to tax payable on leaded gasoline. Amendments are also made to provide for distinct rules that apply where a collector, importer, retailer or wholesaler seeks to recover from the Minister an overpayment of tax on gasoline that arose from paying more tax than the reduced amount. In particular, these rules deal with the deadline by which applications to be reimbursed in respect of such overpayments must be made and allow for retailers and wholesalers who are not collectors or importers to make such applications through the person to whom the payment giving rise to the overpayment was made. Finally, the Minister is provided with regulation-making authority to address any matters that may arise from the temporary reduction.

An Act to amend the Fuel Tax Act and the Gasoline Tax Act with respect to a temporary reduction to the tax payable on certain clear fuel and on gasoline

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Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Except as otherwise provided in this section, this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

Short title

3 The short title of this Act is the *Tax Relief at the Pumps Act, 2022*.

**SCHEDULE 1
FUEL TAX ACT**

1 Section 2 of the *Fuel Tax Act* is amended by adding the following subsection:

Temporary reduction to rate, clear fuel

(1.1) Despite clause (1) (b), the tax on clear fuel provided for in that clause shall be reduced by 5.3 cents per litre of clear fuel if,

- (a) the tax is payable during the period beginning on July 1, 2022 and ending on December 31, 2022; or
- (b) the tax is payable after that period, but the clear fuel in respect of which the tax is payable was purchased by a retail dealer during that period.

2 Section 18 of the Act is amended by adding the following subsections:

Inventory report

(1.2) The Minister may, for any purpose related to the administration or enforcement of this Act and the regulations, require a retail dealer, wholesaler, distributor, importer or collector to complete an inventory report showing all fuel that the retail dealer, wholesaler, distributor, importer or collector owns or has in its possession on one or more specified dates.

Same

(1.3) The inventory report shall contain such other information that the Minister may require and the report shall be given to the Minister within the period of time specified by the Minister.

3 Section 21 of the Act is amended by adding the following subsections:

Limitation, tax paid at non-reduced rate

(6.1) Despite subsection (6), a refund of an amount transmitted to the Minister in excess of the tax collectable or payable by a person under this Act shall not be refunded under this section if the excess payment resulted from the payment of an amount of tax on clear fuel in excess of the amount that is actually payable after applying the reduction set out in subsection 2 (1.1) unless,

- (a) if the refund is being sought by a collector, distributor or importer, the collector, distributor or importer makes an application in respect of the refund to the Minister on or before October 31, 2022 or any applicable later deadline prescribed by the Minister for the purposes of this clause, subject to subsection (6.3); and
- (b) if the refund is being sought by a retail dealer or wholesaler who is not a collector, distributor or importer, the retail dealer or wholesaler,
 - (i) has made reasonable efforts to obtain the refund under section 21.0.1 from the person to whom the payment giving rise to the excess payment was made or has been required by the Minister under subsection 21.0.1 (7) to apply for the refund under this section, and
 - (ii) makes an application in respect of the refund to the Minister on or before December 15, 2022 or any applicable later deadline prescribed by the Minister for the purposes of this clause, subject to subsection (6.3).

Interest

(6.2) Despite anything in this Act or the regulations, no interest shall be paid on a refund of any excess payment of tax described in subsection (6.1).

Extension

(6.3) The Minister may permit an application to be made at a later date than the applicable deadline under clause (6.1) (a) or subclause (6.1) (b) (ii) if, in the Minister's opinion, there are mitigating circumstances explaining why the application could not be made before the applicable deadline.

4 The Act is amended by adding the following section:

Refund by collector, excess payment resulting from temporary reduction

21.0.1 (1) A retail dealer or a wholesaler who is not a collector, a distributor or an importer and who made a payment resulting in an excess payment of tax described in subsection 21 (6.1) may apply to the Minister for a refund through the person from whom the retail dealer or wholesaler purchased the clear fuel.

Evidence on application

(2) In making any application under subsection (1), the retail dealer or wholesaler shall provide to the person from whom the clear fuel was purchased such information and documents respecting their entitlement to the refund as the Minister may require and shall do so in the form and manner specified by the Minister.

Deadline

(3) Subject to subsection (4), an application for a refund under this section must be made to the person from whom the clear fuel was purchased on or before,

- (a) October 31, 2022; or
- (b) any applicable later deadline prescribed by the Minister for the purposes of this subsection.

Extension

(4) The Minister may permit an application to be made at a later date than the applicable deadline under subsection (3) if, in the Minister's opinion, there are mitigating circumstances explaining why the application could not be made before the applicable deadline.

Refund of amount or application to other liability

(5) Upon receipt of an application under subsection (1), the person from whom the clear fuel was purchased shall determine whether the applicant is entitled to the amount requested as a refund, or any portion of it, and refund the amount, if any, to which the person has determined the applicant is entitled or apply it to other amounts owed to the person by the applicant in respect of a purchase of clear fuel.

Refusal of refund, notice

(6) If the person from whom the clear fuel was purchased determines that the applicant is not entitled to be refunded the amount requested, or any portion of it, the person shall provide notice to the applicant of the determination and the reasons for the determination.

Exception

(7) Where the Minister considers it appropriate to do so, the Minister may require a retail dealer or a wholesaler referred to in subsection (1) to apply for refunds under section 21.

Deemed refund by Minister

(8) A refund made under this section shall be deemed to have been made by the Minister.

5 Subsection 29 (2) of the Act is amended by adding the following clause:

- (x) providing for anything which, in the Minister's opinion, is necessary or advisable to address any matters arising from the temporary reduction to the tax on clear fuel provided for in subsection 2 (1.1), including any matters respecting refunds provided for in section 21.0.1.

Commencement

6 This Schedule comes into force on the day the *Tax Relief at the Pumps Act, 2022* receives Royal Assent.

**SCHEDULE 2
GASOLINE TAX ACT**

1 Section 2 of the *Gasoline Tax Act* is amended by adding the following subsections:

Temporary reduction to rate

(1.1) Despite subsection (1) and subject to subsection (1.2), the tax provided for in subsection (1) shall be reduced by 5.7 cents per litre of gasoline if,

- (a) the tax is payable during the period beginning on July 1, 2022 and ending on December 31, 2022; or
- (b) the tax is payable after that period, but the gasoline in respect of which the tax is payable was purchased by a retailer during that period.

Non-application of reduction to leaded gasoline

(1.2) The reduction set out in subsection (1.1) does not apply to tax payable on leaded gasoline.

2 Section 28 of the Act is amended by adding the following subsections:

Limitation, overpayments resulting from temporary reduction

(4.1) Despite subsections (1) and (4), no refund or application of an overpayment of tax shall be made under this section if the overpayment resulted from the payment of a greater amount of tax on gasoline than the amount that is actually payable after applying the reduction set out in subsection 2 (1.1) unless,

- (a) if the refund or application of an overpayment of tax is being sought by a collector or importer, the collector or importer makes an application in respect of the overpayment to the Minister on or before October 31, 2022 or any applicable later deadline prescribed by the Minister for the purposes of this clause, subject to subsection (4.3); or
- (b) if the refund or application of an overpayment of tax is being sought by a retailer or wholesaler who is not a collector or an importer, the retailer or wholesaler,
 - (i) has made reasonable efforts to obtain the refund under section 28.1.1 from the person to whom the payment that resulted in the overpayment was made or has been required by the Minister under subsection 28.1.1 (7) to apply for the refund under this section, and
 - (ii) makes an application in respect of the overpayment to the Minister on or before December 15, 2022 or any applicable later deadline prescribed by the Minister for the purposes of this clause, subject to subsection (4.3).

Interest

(4.2) Despite subsection (2), interest shall not be paid on a refund or applied on other liability in respect of an overpayment of tax described in subsection (4.1).

Extension

(4.3) The Minister may permit an application to be made at a later date than the applicable deadline under clause (4.1) (a) or subclause (4.1) (b) (ii) if, in the Minister's opinion, there are mitigating circumstances explaining why the application could not be made before the applicable deadline.

3 The Act is amended by adding the following section:

Refunds for retailers and wholesalers, overpayment resulting from temporary reduction

28.1.1 (1) A retailer or a wholesaler who is not a collector or an importer and who made a payment that resulted in an overpayment of tax described in subsection 28 (4.1) may apply to the Minister for a refund through the person from whom the retailer or wholesaler purchased the gasoline.

Evidence on application

(2) In making any application under subsection (1), the retailer or wholesaler shall provide to the person from whom the gasoline was purchased such information and documents respecting the overpayment as the Minister may require and shall do so in the form and manner specified by the Minister.

Deadline

(3) Subject to subsection (4), an application for a refund under this section must be made to the person from whom the gasoline was purchased on or before,

- (a) October 31, 2022; or
- (b) any applicable later deadline prescribed by the Minister for the purposes of this subsection.

Extension

(4) The Minister may permit an application to be made at a later date than the applicable deadline under subsection (3) if, in the Minister's opinion, there are mitigating circumstances explaining why the application could not be made before the applicable deadline.

Refund of overpayment or application to other liability

(5) Upon receipt of an application under subsection (1), the person from whom the gasoline was purchased shall determine whether the amount claimed as an overpayment, or any portion of it, constitutes an overpayment and refund the amount, if any, determined to be an overpayment or apply it to other amounts owed to the person by the applicant in respect of a purchase of gasoline.

Refusal of refund, notice

(6) If the person from whom the gasoline was purchased determines that the amount claimed as an overpayment, or any portion of it, does not constitute an overpayment, the person shall provide notice to the applicant of the determination and the reasons for the determination.

Exception

(7) Where the Minister considers it appropriate to do so, the Minister may require a retailer or wholesaler referred to in subsection (1) to apply for refunds under section 28.

Deemed refund by Minister

(8) A refund made under this section shall be deemed to have been made by the Minister.

4 Subsection 33 (2) of the Act is amended by adding the following clause:

- (m) providing for anything which, in the Minister's opinion, is necessary or advisable to address any matters arising from the temporary reduction to the tax on gasoline provided for in subsection 2 (1.1), including any matters respecting refunds provided for in section 28.1.1.

Commencement

5 This Schedule comes into force on the day the *Tax Relief at the Pumps Act, 2022* receives Royal Assent.