

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

1ST SESSION, 43RD LEGISLATURE, ONTARIO
1 CHARLES III, 2023

Bill 85

(Chapter 8 of the Statutes of Ontario, 2023)

An Act to implement Budget measures and to amend various statutes

The Hon. P. Bethlenfalvy
Minister of Finance

1st Reading	March 23, 2023
2nd Reading	March 30, 2023
3rd Reading	May 18, 2023
Royal Assent	May 18, 2023



EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 85 and does not form part of the law.
Bill 85 has been enacted as Chapter 8 of the Statutes of Ontario, 2023.*

SCHEDULE 1 DEDICATED FUNDING FOR PUBLIC TRANSPORTATION ACT, 2013

The Schedule amends the *Dedicated Funding for Public Transportation Act, 2013*, which provides that a portion of the tax that is paid to Ontario under the *Gasoline Tax Act* in each fiscal year be dedicated to the provision of grants to municipalities for public transportation. Subsection 1 (2) of the Act sets out the calculation for determining the portion of the tax that is dedicated to that purpose. Currently, subsection 1 (2) refers to the tax rate per litre of gasoline that is specified in clause 2 (1) (b) of the *Gasoline Tax Act* for the purposes of that calculation. Subsection 1 (2) is re-made to provide instead that the amount of the portion of the tax for a fiscal year be calculated using the tax rate per litre of gasoline in effect for that fiscal year under section 2 of the *Gasoline Tax Act*. A new subsection 1 (2.1) is added to the Act that sets out how the portion is to be calculated for a fiscal year during which more than one tax rate was in effect.

SCHEDULE 2 FINANCIAL PROFESSIONALS TITLE PROTECTION ACT, 2019

The Schedule amends the *Financial Professionals Title Protection Act, 2019* to give the Authority the power to make rules governing the use of protected titles in certain circumstances. Clause 15 (2) (d) of the Act is also repealed.

SCHEDULE 3 FUEL TAX ACT

The Schedule amends the *Fuel Tax Act*.

The definition of “fuel” in subsection 1 (1) is amended to exclude hydrogen.

Subsection 13 (12) authorizes the Minister, when assessing an interjurisdictional carrier who has not kept adequate books of account, to deem certain vehicles to have travelled a distance of 1.6 kilometres per litre of fuel consumed. The subsection is amended to allow the Minister to deem the vehicles to have travelled a distance of 1.7 kilometres per litre of fuel consumed or to reduce the carrier’s reported kilometres per litre by 20 per cent.

SCHEDULE 4 GASOLINE TAX ACT

The Schedule makes the following amendments to the *Gasoline Tax Act*:

1. The definition of “gasoline” in subsection 1 (1) is amended to exclude hydrogen and the definition of “fuel” for the purposes of section 34 is amended to include “hydrogen”.
2. Currently, the definition of “propane” in subsection 1 (1) is defined with reference to Standard CAN/CGSB-3.14-M88 of the National Standards of Canada. The definition is amended to replace reference to that standard with reference to Standard CAN/CGSB-3.14.
3. New subsection 2 (4.3.1) imposes a tax rate of 0 cents per litre on hydrogen used by an interjurisdictional carrier in Ontario to generate power in a qualified motor vehicle.
4. Currently, Subsections 4.1 (4.1) and 4.2 (3) provide penalties for unregistered importers and exporters that import or export gasoline. These subsections are amended to also provide for penalties for unregistered importers or exporters that import or export aviation fuel or propane.
5. Subsection 11 (18) currently authorizes the Minister, when assessing an interjurisdictional carrier who has not maintained adequate books of account, to deem certain vehicles to have travelled 1.2 kilometres per litre of gasoline consumed or 1 kilometre per litre of propane consumed. The subsection is amended to allow the Minister to deem the vehicles to have travelled a distance of 1.7 kilometres per litre of gasoline or propane consumed or to reduce the carrier’s reported kilometres per litre by 20 per cent.

SCHEDULE 5 INSURANCE ACT

Section 121.0.1 of the *Insurance Act* is amended to provide the Financial Services Regulatory Authority of Ontario with the authority to make rules governing what constitutes an individual variable insurance contract.

SCHEDULE 6 LIQUOR TAX ACT, 1996

The Schedule amends the *Liquor Tax Act, 1996*.

Sections 23 and 24 of the Act are retroactively amended effective November 29, 2021. Immediately prior to November 29, 2021, a purchaser of draft or non-draft beer manufactured by a beer manufacturer was required to pay a volume tax and an environmental tax in respect of the purchase in accordance with those sections. On November 29, 2021, those sections were amended to provide that the volume tax and environmental tax was payable in respect of draft or non-draft beer generally. These sections are amended retroactively to provide that they apply to draft beer manufactured by a beer manufacturer or one of its affiliates.

Subsection 17 (1) of the Act is amended to provide for two new definitions, “onsite winery retail store” (a winery retail store that is located on the licensee’s production site) and “offsite winery retail store” (a winery retail store that is not located on the licensee’s production site). The definitions of “authorized grocery store” and “wine boutique” are repealed. In light of this change in terminology, amendments are made to sections 27, 28 and 29, which provide for the basic tax, volume tax and environmental tax payable in respect of purchases of wine or wine cooler. In addition, section 27 is amended such that a single basic tax of 12 per cent rate applies in respect of the purchase of wine or wine cooler from an off-site winery retail store.

SCHEDULE 7 MINISTRY OF REVENUE ACT

New section 14.1 of the *Ministry of Revenue Act* authorizes the collection of information and material relating to vessels and aircraft from Transport Canada for specified purposes including the development and evaluation of tax policy. The Minister is required to publish a notice with respect to the collection of personal information under the section.

SCHEDULE 8 ONTARIO GUARANTEED ANNUAL INCOME ACT

The Schedule makes the following amendments to the *Ontario Guaranteed Annual Income Act* that apply with respect to July 2024 and subsequent months:

1. The amount of the monthly benefit under subsection 2 (4) of the Act is currently reduced by one dollar for every full 24 or 48 dollars, depending on the circumstances. The Act is amended so that the reduction is itself reduced to 50 cents for every full 24 or 48 dollars.
2. Amendments are made so that the amount of the monthly guaranteed annual income increment authorized to be paid under the Act is calculated in the same manner as the monthly benefit under subsection 2 (4) of the Act.

In addition, a new section 1.1 provides for the automatic indexing of the maximum amount of the increment for the purposes of the Act.

SCHEDULE 9 TAXATION ACT, 2007

The Schedule amends the *Taxation Act, 2007*. Here are some highlights:

1. Currently, section 8 of the Act sets out rules for determining the amount of non-refundable tax credits. Paragraph 13.2 of that section currently sets out rules for determining an individual’s entitlement to the tax credit for unused tuition and education, if the conditions set out in paragraph 13.3 are satisfied. One of those conditions is amended on a retroactive basis to January 1, 2018.
2. The Act is amended by adding a new subsection 9 (14.2), which provides that if an individual was not resident in Ontario on the last day of a taxation year ending after December 31, 2021, the amount of the individual’s tax credit for the year in respect of unused tuition and education tax credits is nil. The amendment is made retroactive to January 1, 2022.
3. Section 24 of the Act imposes the Ontario Health Premium. Various amendments are made to the rules that apply in circumstances where an individual becomes or became a bankrupt. The amendments are effective January 1, 2023.
4. Currently, subsection 31 (5.5) of the Act phases out the small business deduction for corporations having taxable capital employed in Canada between \$10 million and \$15 million. The small business deduction is eliminated for corporations having more than \$15 million of taxable capital employed in Canada. Subsection 31 (5.5) is amended to provide that it applies only to taxation years beginning before April 7, 2022. A new subsection 31 (5.5.1) is added and applies to taxation years beginning on or after April 7, 2022. The new subsection phases out the small business deduction for corporations with taxable capital employed in Canada between \$10 million and \$50 million. The deduction is eliminated for corporations with more than \$50 million of taxable capital employed in Canada. The amendments are made retroactive to April 7, 2022.
5. New section 97.2 provides for the Ontario made manufacturing investment tax credit. The credit is available in respect of eligible expenditures made by a qualifying corporation. The criteria for a corporation to be a qualifying corporation are set out in subsection 97.2 (3). The criteria for an expenditure to be an eligible expenditure are set out in subsection 97.2 (4), which includes requirements that the expenditure be incurred in respect of eligible property. Eligible property is defined in subsection 97.2 (17). Rules are included respecting qualifying corporations that are associated with one or

more other qualifying corporations at any time in a taxation year. Consequential amendments are made to sections 84 and 176.

6. Technical amendments are made to section 103.14 of the Act.

SCHEDULE 10
TOBACCO TAX ACT

The Schedule amends the *Tobacco Tax Act* by repealing the provisions of the Act respecting tear tape, including section 7.1 of the Act, which requires tear tape manufacturers to hold a permit issued by the Minister.

In addition, various amendments are made to the French version of the Act.

An Act to implement Budget measures and to amend various statutes**CONTENTS**

1.	Contents of this Act
2.	Commencement
3.	Short title
Schedule 1	Dedicated Funding for Public Transportation Act, 2013
Schedule 2	Financial Professionals Title Protection Act, 2019
Schedule 3	Fuel Tax Act
Schedule 4	Gasoline Tax Act
Schedule 5	Insurance Act
Schedule 6	Liquor Tax Act, 1996
Schedule 7	Ministry of Revenue Act
Schedule 8	Ontario Guaranteed Annual Income Act
Schedule 9	Taxation Act, 2007
Schedule 10	Tobacco Tax Act

His 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.

(3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Building a Strong Ontario Act (Budget Measures), 2023*.

SCHEDULE 1
DEDICATED FUNDING FOR PUBLIC TRANSPORTATION ACT, 2013

1 Subsection 1 (2) of the *Dedicated Funding for Public Transportation Act, 2013* is repealed and the following substituted:

Amount

(2) The portion of the tax that is dedicated to that purpose in each fiscal year that begins on or after April 1, 2013 is the amount calculated by multiplying 2 cents by the number of litres of gasoline on which tax was paid during the previous fiscal year, that number being the number determined by dividing the total revenue from gasoline tax for that fiscal year, as reported in the Public Accounts, by the tax rate per litre of gasoline in effect for that fiscal year under section 2 of the *Gasoline Tax Act*.

Same, more than one rate in effect

(2.1) If more than one tax rate was in effect during the previous fiscal year, the number of litres of gasoline on which tax was paid during that fiscal year shall be calculated by,

- (a) for each period of the fiscal year during which a different tax rate was in effect, dividing the total revenue from gasoline tax for that period by the tax rate that was in effect during that period to determine the number of litres on which tax was paid during each period; and
- (b) adding together the number of litres determined under clause (a) for each period of the fiscal year during which a different tax rate was in effect.

Commencement

2 This Schedule comes into force on the day the *Building a Strong Ontario Act (Budget Measures), 2023* receives Royal Assent.

SCHEDULE 2
FINANCIAL PROFESSIONALS TITLE PROTECTION ACT, 2019

1 (1) Subsection 15 (1) of the *Financial Professionals Title Protection Act, 2019* is amended by adding the following paragraph:

10. Governing the use of protected titles in circumstances where an approved credentialing body's approval is revoked or where an approved credentialing body ceases to operate or otherwise ceases to be an approved credentialing body for the purposes of this Act.

(2) Clause 15 (2) (d) of the Act is repealed.

Commencement

2 This Schedule comes into force on the day the *Building a Strong Ontario Act (Budget Measures), 2023* receives Royal Assent.

**SCHEDULE 3
FUEL TAX ACT**

1 The definition of “fuel” in subsection 1 (1) of the *Fuel Tax Act* is amended by striking out “or” at the end of clause (a), by adding “or” at the end of clause (b) and by adding the following clause:

(c) hydrogen;

2 Subsection 13 (12) of the Act is repealed and the following substituted:

Notice of assessment

(12) The Minister may, at any time the Minister considers reasonable, assess an interjurisdictional carrier, who has failed or refused to maintain adequate books of account as required by this Act and the regulations, the tax payable under this Act by the interjurisdictional carrier and, for the purpose of such assessment, the Minister may,

- (a) deem the interjurisdictional carrier’s interjurisdictional vehicles or fleet of interjurisdictional vehicles to have travelled a distance equal to 1.7 kilometres for each litre of fuel consumed by the vehicles or fleet of vehicles; or
- (b) reduce the interjurisdictional carrier’s reported kilometres per litre by 20 per cent.

Commencement

3 This Schedule comes into force on the day the *Building a Strong Ontario Act (Budget Measures), 2023* receives Royal Assent.

**SCHEDULE 4
GASOLINE TAX ACT**

1 (1) The definition of “gasoline” in subsection 1 (1) of the *Gasoline Tax Act* is amended by,

- (a) striking out “other than methanol and natural gas” in the portion before clause (a) and substituting “other than hydrogen, methanol and natural gas”; and
- (b) striking out “except methanol and natural gas” in clause (e) and substituting “except hydrogen, methanol and natural gas”.

(2) The definition of “propane” in subsection 1 (1) of the Act is amended by striking out “CAN/CGSB-3.14-M88” and substituting “CAN/CGSB-3.14”.

(3) Clause (b) of the definition of “qualified motor vehicle” in subsection 1 (1) of the Act is amended by striking out “gasoline, natural gas or propane” and substituting “gasoline, hydrogen, natural gas or propane”.

2 Section 2 of the Act is amended by adding the following subsection:

Same, hydrogen

(4.3.1) Every interjurisdictional carrier who acquires hydrogen anywhere shall pay a tax at the rate of 0 cents per litre on all hydrogen used by the interjurisdictional carrier in Ontario to generate power in a qualified motor vehicle.

3 Subsection 4.1 (4.1) of the Act is amended by striking out “the gasoline that the person imported into Ontario” and substituting “the gasoline, aviation fuel or propane that the person imported into Ontario”.

4 Subsection 4.2 (3) of the Act is amended by striking out “the gasoline that the person exported out of Ontario” and substituting “the gasoline, aviation fuel or propane that the person exported out of Ontario”.

5 Subsection 11 (18) of the Act is repealed and the following substituted:

Assessment — interjurisdictional carriers

(18) The Minister may, at any time the Minister considers reasonable, assess an interjurisdictional carrier, who has failed or refused to maintain adequate books of account as required by this Act and the regulations, the tax payable by the interjurisdictional carrier under this Act and, for the purposes of such assessment, the Minister may,

- (a) deem the interjurisdictional carrier’s qualified motor vehicles or fleet of qualified motor vehicles to have travelled a distance equal to 1.7 kilometres for each litre of gasoline or for each litre of propane consumed by the qualified motor vehicle or fleet of qualified motor vehicles; or
- (b) reduce the interjurisdictional carrier’s reported kilometres per litre by 20 per cent.

6 Subsection 34 (1) of the Act is repealed and the following substituted:

Interjurisdictional agreements

(1) In this section,

“fuel” means gasoline, hydrogen, natural gas or propane.

Commencement

7 This Schedule comes into force on the day the *Building a Strong Ontario Act (Budget Measures), 2023* receives Royal Assent.

**SCHEDULE 5
INSURANCE ACT**

1 Paragraph 11.1 of subsection 121.0.1 (1) of the *Insurance Act* is amended by adding the following subparagraph:

- v. Governing what constitutes an individual variable insurance contract.

Commencement

2 This Schedule comes into force on the day the *Building a Strong Ontario Act (Budget Measures), 2023* receives Royal Assent.

**SCHEDULE 6
LIQUOR TAX ACT, 1996**

1 (1) The definition of “authorized grocery store” in subsection 17 (1) of the *Liquor Tax Act, 1996* is repealed.

(2) The definition of “beer manufacturer” in subsection 17 (1) of the Act is repealed and the following substituted:

“beer manufacturer” means the holder of a manufacturer’s licence to sell that authorizes the sale of beer; (“fabricant de bière”)

(3) Subsection 17 (1) of the Act is amended by adding the following definitions:

“offsite winery retail store” means a winery retail store that is not located on the licensee’s production site; (“magasin de détail d’établissement vinicole hors site”)

“onsite winery retail store” means a winery retail store that is located on the licensee’s production site; (“magasin de détail d’établissement vinicole sur les lieux”)

(4) The definition of “wine boutique” in subsection 17 (1) of the Act is repealed.

2 Section 23 of the Act is amended by striking out “draft or non-draft beer” and substituting “draft beer manufactured by a beer manufacturer or one of its affiliates or of non-draft beer”.

3 Section 24 of the Act is amended by striking out “non-draft beer or draft beer” and substituting “draft beer manufactured by a beer manufacturer or one of its affiliates or of non-draft beer”.

4 (1) Subsection 27 (1) of the Act is amended by striking out “from a winery retail store or an authorized grocery store” and substituting “from an onsite winery retail store”.

(2) Subsection 27 (1.1) of the Act is repealed.

(3) Subsection 27 (2) of the Act is amended by striking out “from a winery retail store or an authorized grocery store” and substituting “from an onsite winery retail store”.

(4) Subsection 27 (2.1) of the Act is repealed and the following substituted:

Same, purchases from offsite winery retail stores

(2.1) A purchaser who purchases from an offsite winery retail store wine or wine cooler manufactured by the owner of the offsite winery retail store shall pay a basic tax in respect of the purchase at the basic tax rate of 12 per cent of the retail price of the wine or wine cooler.

(5) Subsection 27 (3) of the Act is amended by striking out “or an authorized grocery store” in the portion before paragraph 1.

5 Section 28 of the Act is repealed and the following substituted:

Volume tax

28 (1) A purchaser who purchases wine or wine cooler shall pay a volume tax in respect of the purchase at the rate specified in subsection (2) if,

- (a) the wine or wine cooler is purchased from an onsite winery retail store; or
- (b) the wine or wine cooler is purchased from an offsite winery retail store and the wine or wine cooler was manufactured by the owner of the store.

Rate

(2) The rate mentioned in subsection (1) is,

- (a) 29 cents per litre, in the case of wine; or
- (b) 28 cents per litre, in the case of wine cooler.

6 Section 29 of the Act is repealed and the following substituted:

Environmental tax

29 A purchaser who purchases wine or wine cooler shall pay an environmental tax of 8.93 cents for each non-refillable container in which the wine or wine cooler is purchased if,

- (a) the wine or wine cooler is purchased from an onsite winery retail store; or
- (b) the wine or wine cooler is purchased from an offsite winery retail store and the wine or wine cooler was manufactured by the owner of the store.

Commencement

7 (1) Except as otherwise provided in this section, this Schedule comes into force on July 1, 2023.

(2) Subsection 1 (2) and sections 2 and 3 are deemed to have come into force on November 29, 2021.

**SCHEDULE 7
MINISTRY OF REVENUE ACT**

1 The *Ministry of Revenue Act* is amended by adding the following section:

Collection of information from Transport Canada

14.1 (1) For any of the following purposes, the Minister and any public servant employed under Part III of the *Public Service of Ontario Act, 2006* who is engaged, directly or indirectly, in the administration and enforcement of an Act that imposes a tax may collect information and material relating to vessels and aircraft in the course of the Minister's or the public servant's duties from Transport Canada, whether directly or indirectly:

1. For use in the administration and enforcement of an Act described in subsection (2) or an Act that imposes a tax.
2. For use in developing or evaluating tax policy for the Crown.

Same

(2) Subsection (1) applies despite any provision in an Act administered by the Minister or in an Act under which the Minister exercises powers or performs duties as assigned to the Minister under the *Executive Council Act*.

Notice of collection of personal information

(3) The Minister shall ensure that a notice is published on a Government of Ontario website that contains the following information respecting personal information that is collected under this section:

1. The legal authority for the collection.
2. The types of personal information that may be collected.
3. The sources of the personal information that may be collected.
4. The purpose for which the personal information is collected and may be used and disclosed, including the general nature of the linkages that may be made with the personal information.
5. The title and contact information of the ministry representative who can answer questions about the collection, use and disclosure of the personal information that is collected.

Commencement

2 This Schedule comes into force on the day the *Building a Strong Ontario Act (Budget Measures), 2023* receives Royal Assent.

SCHEDULE 8
ONTARIO GUARANTEED ANNUAL INCOME ACT

1 The definition of “increment” in subsection 1 (1) of the *Ontario Guaranteed Annual Income Act* is repealed and the following substituted:

“increment” means the monthly guaranteed annual income increment authorized to be paid under this Act; (“supplément provincial”)

2 The Act is amended by adding the following section:

Maximum increment

1.1 (1) In this section,

“base maximum increment” means the amount by which one-twelfth of the guaranteed income limit applicable to a beneficiary in respect of a quarter exceeds the sum of the maximum pension payable to an individual for a month in the quarter and the maximum supplement payable to a single or married individual, as the case may be, for a month in the quarter; (“supplément provincial maximal de base”)

“change to the cost of living” means, for a given fiscal year, the amount calculated using the following formula and rounded to the nearest thousandth:

$$(A \div B) - 1$$

in which,

“A” represents the cost of living index for the fiscal year in question, and

“B” represents the cost of living index for the fiscal year immediately preceding the fiscal year in question; (“variation du coût de la vie”)

“cost of living index” means, for a given fiscal year, the average Consumer Price Index for Ontario (All-Items), as published by Statistics Canada under the authority of the *Statistics Act* (Canada), for the months that make up the 12-month period ending on September 30 of the previous fiscal year. (“indice du coût de la vie”)

Amount

(2) For the fiscal year commencing on July 1, 2024 and subsequent fiscal years, the maximum increment payable for a month under this Act is the amount as most recently adjusted under this section, except that, if no adjustment occurs on July 1, 2024, the maximum increment payable for a month is the base maximum increment until the first adjustment occurs under this section.

Adjustment

(3) Subject to subsection (5), if the change to the cost of living for the fiscal year commencing on July 1, 2024 or a subsequent fiscal year is a positive number, on July 1 of that fiscal year the maximum increment payable for a month shall be adjusted using the formula,

$$C + (C \times D)$$

in which,

“C” represents,

(a) in the case of the first adjustment under this section, the base maximum increment, or

(b) in the case of subsequent adjustments under this section, the maximum increment payable for a month, and

“D” represents the change to the cost of living for the fiscal year in which the adjustment occurs.

Whole dollar amount

(4) If an adjusted amount is not a whole dollar amount, it shall be rounded up to the next whole dollar.

Exception

(5) No adjustment shall occur during a fiscal year if the cost of living index for the year is equal to or less than the cost of living index for the last fiscal year during which an adjustment occurred.

Subsequent adjustment

(6) If no adjustment occurs in a fiscal year by application of subsection (5), for the first subsequent fiscal year during which an adjustment is to occur, the value of “D” in subsection (3) shall represent the change to the cost of living for that fiscal year, calculated using the cost of living index for the last fiscal year during which an adjustment occurred as the value of “B” in the definition of “change to the cost of living” in subsection (1).

3 (1) Subsection 2 (4) of the Act is amended by striking out “minus \$1.00” in the portion before clause (a) and substituting “minus the applicable amount set out in subsection (4.1) for every full”.

(2) The English version of clauses 2 (4) (a), (b) and (c) of the Act are amended by striking out “for every full” at the beginning of each clause.

(3) Section 2 of the Act is amended by adding the following subsection:

Same

(4.1) The amount mentioned in subsection (4) is,

- (a) for a month before July 2024, \$1.00; and
- (b) for July 2024 and subsequent months, \$0.50.

4 Section 3 of the Act is amended by adding the following subsection:

Amount

(1.1) The increment is an amount equal to,

- (a) if the increment is payable for a month before July 2024, the amount by which one-twelfth of the guaranteed income limit applicable to a beneficiary exceeds the beneficiary’s basic monthly income for the month for which the payment authorized under this Act is being made; or
- (b) if the increment is payable for July 2024 or a subsequent month, an amount calculated in the same manner as a “monthly benefit” under subsection 2 (4).

Commencement

5 This Schedule comes into force on the day the *Building a Strong Ontario Act (Budget Measures), 2023* receives Royal Assent.

**SCHEDULE 9
TAXATION ACT, 2007**

1 Subparagraph 13.3 ii of section 8 of the *Taxation Act, 2007* is repealed and the following substituted:

- ii. The individual was resident in a province other than Ontario on the last day of the taxation year preceding the particular taxation year.

2 Section 9 of the Act is amended by adding the following subsection:

Unused tuition and education tax credits, taxation years ending after 2021

(14.2) Despite subsection (14), for a taxation year ending after December 31, 2021, if an individual was not resident in Ontario on the last day of the year, the amount of the individual's tax credit for the year in respect of unused tuition and education tax credits is nil.

3 Subsections 24 (4) and (4.1) of the Act are repealed and the following substituted:

Bankruptcy

(4) The following rules apply if an individual becomes a bankrupt in a calendar year:

1. The individual's taxable income for the calendar year for the purposes of this section is deemed to be the sum of all amounts, each of which is their taxable income for a taxation year ending in the calendar year of bankruptcy.
2. The amount of the individual's Ontario Health Premium is,
 - i. for a taxation year that is deemed to end under paragraph 128 (2) (d) of the Federal Act on the day immediately before the day on which the individual became a bankrupt, the amount that would be determined under subsection (2) if the taxation year were the only taxation year of the individual ending in the calendar year, and
 - ii. for any other taxation year ending in the calendar year, the amount calculated using the formula,

J - K

in which,

“J” is the individual's Ontario Health Premium determined under subsection (2) as if each reference to “taxation year” in subsections (1) and (2) were read as a reference to “calendar year”, and

“K” is the amount of the individual's Ontario Health Premium payable for the taxation year described in subparagraph i.

Exception, bankruptcy returns

(4.1) If a return of income is required to be filed under paragraph 128 (2) (e) of the Federal Act for a taxation year, the amount of the Ontario Health Premium for the year under that return is deemed to be nil.

4 (1) Subsection 31 (5.5) of the Act amended by adding “and beginning before April 7, 2022” before “is the amount” in the portion before the formula.

(2) Section 31 of the Act is amended by adding the following subsection:

Same, tax years beginning on or after April 7, 2022

(5.5.1) Despite subsections (5) to (5.5), a Canadian-controlled private corporation's Ontario business limit for a particular taxation year beginning on or after April 7, 2022 and ending in a calendar year is the amount, if any, by which its Ontario business limit otherwise determined under subsections (5) to (5.4) for the particular taxation year exceeds the amount determined by the formula,

$$A \times (B/\$90,000)$$

in which,

“A” is the amount that would, but for this subsection, be the corporation's business limit for the particular taxation year, and

“B” is the amount determined by the formula,

$$0.225\% \times (D - \$10 \text{ million})$$

in which,

“D” is,

- (a) if, in both the particular taxation year and the preceding taxation year, the corporation is not associated with any corporation, the taxable capital employed in Canada (within the meaning assigned by subsection 181.2

(1) or 181.3 (1) or section 181.4 of the Federal Act, as the case may be) of the corporation for the preceding taxation year,

- (b) if, in the particular taxation year, the corporation is not associated with any corporation but was associated with one or more corporations in the preceding taxation year, the taxable capital employed in Canada (within the meaning by subsection 181.2 (1) or 181.3 (1) or section 181.4 of the Federal Act, as the case may be) of the corporation for the particular taxation year, or
- (c) if, in the particular taxation year, the corporation is associated with one or more particular corporations, the total of all amounts each of which is the taxable capital employed in Canada (within the meaning assigned by subsection 181.2 (1) or 181.3 (1) or section 181.4 of the Federal Act, as the case may be) of the corporation or of any of the particular corporations for its last taxation year that ended in the preceding calendar year.

(3) Subsection 31 (5.6) of the Act is amended by striking out “(5.5) is reduced” and substituting “(5.5) or (5.5.1), as the case may be, is reduced”.

5 Subsection 84 (1) of the Act is amended by adding the following paragraph:

11.2 An Ontario made manufacturing investment tax credit under section 97.2.

6 Section 97.1 of the Act is amended by adding the following section:

Interpretation, capital cost

(16) For the purposes of this section, capital cost is determined under the Federal Act, except that a credit claimed under this section or section 97.2 that would otherwise be government assistance for the purposes of determining capital cost under the Federal Act shall be deemed not to be government assistance and shall not reduce the capital cost.

7 The Act is amended by adding the following section:

Ontario made manufacturing investment tax credit

97.2 (1) A corporation that is a qualifying corporation and that complies with the requirements of this section may claim an amount for a taxation year in respect of and not exceeding the corporation’s Ontario made manufacturing investment tax credit for the year.

Amount of tax credit

(2) The amount of a qualifying corporation’s Ontario made manufacturing investment tax credit for a taxation year is the amount equal to 10 per cent of the amount calculated using the formula,

$$A/365 \times B$$

in which,

“A” is the number of days in the taxation year, and

“B” is the lesser of,

- (a) the sum of the qualifying corporation’s eligible expenditures in the taxation year, and
- (b) \$20,000,000, if the corporation is not associated with any qualifying corporation in the taxation year, or the amount determined under subsections (6) and (11), if the corporation is associated with any other qualifying corporation in the taxation year.

Qualifying corporation

(3) A corporation is a qualifying corporation for a taxation year for the purposes of this section if,

- (a) it is a Canadian-controlled private corporation throughout the year;
- (b) it is not exempt from tax for the year under Part III; and
- (c) it carries on business in Ontario in the year through a permanent establishment in Ontario.

Eligible expenditure

(4) An expenditure is an eligible expenditure of the qualifying corporation for a taxation year for the purposes of this section if,

- (a) the expenditure is incurred by the qualifying corporation in respect of the acquisition of eligible property,
- (b) the expenditure is incurred,
 - (i) in the taxation year or a previous taxation year, if the expenditure is in respect of eligible property that satisfies the criteria set out in subparagraph 1 i of the definition of “eligible property” in subsection (17), or

- (ii) in the taxation year and on or after March 23, 2023, if the expenditure is in respect of eligible property that satisfies any of the criteria set out in subparagraphs 1 ii to v of the definition of “eligible property” in subsection (17).
- (c) the expenditure is part of the capital cost of the property to the qualifying corporation at the end of the taxation year;
- (d) the expenditure is not in respect of eligible property for which a credit under this section has been claimed by the qualifying corporation in a previous year or by a corporation associated with the qualifying corporation in any year.

Expenditure under a contract

(5) If a corporation incurs an expenditure in respect of eligible property under a contract with a person or partnership with which the corporation does not deal at arm’s length at the time the expenditure was incurred or at the time the contract was entered into, the expenditure shall not be included in the corporation’s eligible expenditures in respect of the eligible property.

Associated corporations

(6) Subject to subsection (11), if a qualifying corporation is associated in the taxation year with one or more other qualifying corporations, the corporation’s amount for the purposes of clause (b) of the definition of “B” in subsection (2) is the amount designated to the corporation under subsection (7).

Same, agreement re designation

(7) For a calendar year, a qualifying corporation that is associated with one or more other qualifying corporations in a taxation year ending in that calendar year may enter into an agreement with all those corporations designating the amount for the purposes of subsection (6) for each taxation year ending in that calendar year.

Same, total amount designated

(8) For the purposes of subsection (7), the maximum amount that may be designated by a group of associated corporations is \$20,000,000.

Same, more than one taxation year

(9) For the purposes of subsection (7), if a qualifying corporation (the “first corporation”) has more than one taxation year ending in the same calendar year and it is associated in two or more of those taxation years with another qualifying corporation that has a taxation year ending in the same calendar year, the following rules apply:

1. Except as may be provided otherwise by the regulations made by the Minister of Finance, the amount, if any, designated to the first corporation for the first taxation year ending in the calendar year shall be the same as the amount designated to the first corporation for any other taxation year ending in the calendar year.
2. Except as may be provided otherwise by the regulations made by the Minister of Finance, for the purposes of determining the maximum amount that may be designated to a group of associated corporations under subsection (7), only the amount designated to the first corporation in the first taxation year ending in the calendar year shall be included.
3. Such other rules as may be prescribed by the Minister of Finance.

Same, agreement must be filed with Ontario Minister

(10) The agreement referred to in subsection (7) must be filed with the Ontario Minister.

Same, failure to enter agreement, etc.

(11) The amount for the purposes of clause (b) of the definition of “B” in subsection (2) for a qualifying corporation that is associated with any other qualifying corporations in a taxation year is nil if,

- (a) the corporation fails to enter into an agreement referred to in subsection (7);
- (b) the corporation fails to file the agreement with the Ontario Minister under subsection (10); or
- (c) the agreement does not comply with subsection (8) or (9).

Corporations deemed to be associated

(12) If the Ontario Minister reasonably believes that one of the reasons for the separate existence of two or more corporations in a taxation year is to entitle a corporation to the Ontario made manufacturing investment tax credit or to increase the tax credit for a taxation year of any of the corporations, the corporations are deemed to be associated with each another in the taxation year for the purposes of this section.

Amalgamation

(13) Despite any other provision of this section, a qualifying corporation formed as a result of the amalgamation of two or more predecessor corporations shall not claim a credit under this section for any expenditure incurred in respect of eligible property by a predecessor corporation that was not a qualifying corporation at the time the expenditure was incurred.

Available for use

(14) For the purposes of this section, a property is considered to have become available for use at the time the property is considered to have become available for use under subsection 13 (26) of the Federal Act.

Review

(15) The Minister of Finance shall conduct a review of the effectiveness of the Ontario made manufacturing investment tax credit not later than the third anniversary of the day the *Building a Strong Ontario Act (Budget Measures), 2023* received Royal Assent, and not later than every third anniversary thereafter.

Interpretation, capital cost

(16) For the purposes of this section, capital cost is determined under the Federal Act, except that a credit claimed under this section or section 97.1 that would otherwise be government assistance for the purposes of determining capital cost under the Federal Act shall be deemed not to be government assistance and shall not reduce the capital cost.

Definitions

(17) In this section,

“eligible property” means property that satisfies all of the following criteria:

1. The property is capital property of the qualifying corporation for the taxation year, and is,
 - i. a building, or part of a building, included in Class 1 of Schedule II to the Federal regulations to which paragraph 1100 (1) (a.1) of the Federal regulations applies as a result of an election made under subsection 1101 (5b.1) of that regulation,
 - ii. property acquired on or after March 23, 2023 and before 2026 that is included in Class 53 of Schedule II to the Federal regulations,
 - iii. property acquired after 2025 that is included in paragraph (a) of Class 43 of Schedule II of the Federal regulations,
 - iv. property that is prescribed by the Minister of Finance for the purposes of this paragraph, or
 - v. property that meets the conditions prescribed by the Minister of Finance.
2. The property is considered to have become available for use by the qualifying corporation in the taxation year and on or after March 23, 2023.
3. The property is,
 - i. a building, or part of a building, located in Ontario, or
 - ii. property, other than a building or part of a building, that is,
 - A. to be used by the qualifying corporation in Ontario primarily in the manufacturing or processing of goods for sale or lease, or
 - B. to be leased, in the ordinary course of carrying on a business in Ontario of the qualifying corporation, to a lessee who can reasonably be expected to use the property in Ontario primarily in the manufacturing or processing by the lessee of goods for sale or lease.
4. The property is not excluded property; (“bien admissible”)

“excluded property” means,

- (a) property that was owned, at any time, by a person or partnership with which the qualifying corporation did not deal at arm’s length at the time the property was acquired,
- (b) property that the qualifying corporation or a corporation associated with the qualifying corporation held a leasehold interest in at any time before the acquisition of the property,
- (c) property that was acquired from a person or partnership that has a right or option to acquire or lease all or part of the property at any time,
- (d) property in respect of which, at the time it was acquired, the qualifying corporation granted any other person or partnership a right or option to acquire,
- (e) property included in Class 1 of Schedule II to the Federal regulations as a result of an election made under subsection 1103 (1) of those regulations,
- (f) property that is leased to a lessee that is exempt from tax under section 149 of the Federal Act,
- (g) property that is prescribed by the Minister of Finance for the purposes of this definition, or
- (h) property that meets the conditions prescribed by the Minister of Finance; (“bien exclu”)

“permanent establishment” has the meaning assigned by subsection 400 (2) of the Federal regulations as if,

- (a) the reference to “an office, a branch, a mine, an oil well, a farm, a timberland, a factory, a workshop or a warehouse” in the portion before paragraph (a) of the definition were read as “an office, a factory or a workshop”, and
- (b) the definition were read without reference to paragraphs (a), (b), (c), (d) and (e.1). (“établissement stable”)

8 (1) Subsection 103.14 (1) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Effect of death of eligible individual, etc., on calculations

(1) Subsection (2) applies in respect of an individual for the purposes of this Part if the individual has died (in this section referred to as the “deceased individual”), the deceased individual’s death occurred after December 31 of a base taxation year to which a particular month relates and before the beginning of the particular month and the deceased individual would have been, but for their death,

.

(2) Subsection 103.14 (2) of the Act is amended by striking out “specified individual” wherever it appears and substituting in each case “deceased individual”.

9 Paragraph 1 of section 176 of the Act is amended by adding the following subparagraph:

- xii.ii The Ontario made investment tax credit under section 97.2.

Commencement

10 (1) Except as otherwise provided in this section, this Schedule comes into force on the day the *Building a Strong Ontario Act (Budget Measures), 2023* receives Royal Assent.

- (2) Section 1 is deemed to have come into force on January 1, 2018.**
- (3) Section 2 is deemed to have come into force on January 1, 2022.**
- (4) Section 4 is deemed to have come into force on April 7, 2022.**
- (5) Section 3 is deemed to have come into force on January 1, 2023.**

**SCHEDULE 10
TOBACCO TAX ACT**

- 1 (1)** The French version of the definition of “reserve” in subsection 1 (1) of the *Tobacco Tax Act* is amended by striking out “habitants” and substituting “habitants indiens”.
- (2)** The French version of the definition of “consumer” in subsection 1 (1) of the Act is amended by,
- (a)** striking out “obtenu” in clause (b) and substituting “acquis”; and
- (b)** striking out “obtenir” in the portion after clause (b) and substituting “acquérir”.
- (3)** The definitions of “tear tape” and “tear tape manufacturer” in subsection 1 (1) of the Act are repealed.
- 2** The French version of subsection 5 (6) of the Act is amended by,
- (a)** striking out “obtient” and substituting “acquiert”; and
- (b)** striking out “qu’il a vendu ou obtenu” at the end and substituting “qu’il a acheté ou acquis”.
- 3** Section 7.1 of the Act is repealed.
- 4 (1)** Subsection 8 (7.1) of the Act is repealed.
- (2)** Subsection 8 (8) of the Act is amended by striking out “and all tear tape received from the holder of a permit to manufacture tear tape under section 7.1” at the end.
- (3)** Subsection 8 (9) of the Act is amended by striking out “or tear tape” wherever it appears.
- (4)** Subsection 8 (9.1) of the Act is repealed.
- (5)** Subsection 8 (9.2) of the Act is amended by striking out “or tear tape” wherever it appears.
- (6)** Subsection 8 (9.3) of the Act is repealed.
- 5 (1)** The French versions of clauses 12 (2) (b) and (b.1) of the Act are amended by striking out “obtient” wherever it appears and substituting in each case “acquiert”.
- (2)** Subsection 12 (2) of the Act is amended by adding “and” at the end of clause (f), by striking out “and” at the end of clause (f.1) and by repealing clause (g).
- 6** The French version of section 13 of the Act is amended by striking out “désire obtenir” and substituting “désire acquérir”.
- 7 (1)** Subsection 17 (1) of the Act is amended by striking out “to manufacture tear tape” in the portion before clause (a).
- (2)** Subsections 17 (3.1) and (4.2) of the Act are repealed.
- 8** Subsection 22.1 (1.1) of the Act is repealed.
- 9** Subsection 23 (2.1) of the Act is repealed.
- 10 (1)** Clause 28 (3) (b) of the Act is amended by striking out “or to manufacture tear tape” at the end.
- (2)** Clause 28 (3) (c) of the Act is amended by striking out “or to manufacture tear tape” at the end.
- 11** Paragraph 6 of subsection 32.1 (1) of the Act is repealed.
- 12 (1)** Clause 33 (1) (a) of the Act is amended by striking out “or to the tear tape of a package of cigarettes”.
- (2)** Clause 33 (1) (b) of the Act is amended by striking out “or to the tear tape of a package of fine cut tobacco”.
- 13** Subsection 34 (1) of the Act is amended by striking out “or the tear tape of a package of cigarettes”.
- 14** Subsection 34.0.1 (1) of the Act is amended by striking out “or to the tear tape of a package of fine cut tobacco”.
- 15** Section 34.1 of the Act is repealed.
- 16 (1)** The French version of subsection 35 (2.0.1) of the Act is amended by striking out “obtenu” and substituting “acquis auprès”.
- (2)** The French version of subsection 35 (4) of the Act is amended by striking out “obtenu” in the portion before paragraph 1 and substituting “acquis auprès”.
- 17** Clause 41 (2) (c) of the Act is repealed and the following substituted:
- (c)** prescribing the responsibilities of holders of permits to mark or stamp cigarettes with respect to the receipt, use of and accounting for indicia;

Commencement

18 This Schedule comes into force on the day the *Building a Strong Ontario Act (Budget Measures), 2023* receives Royal Assent.