

# *The Education Tax Act*

*being*

Chapter 55 of *The Revised Statutes of Saskatchewan, 1940*  
(effective February 1, 1941).

FOR HISTORICAL REFERENCE ONLY

**NOTE:**

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

## Table of Contents

	SHORT TITLE		RECOVERY OF TAX
1	Short title	13	Proceedings where tax not paid over
	THE EDUCATION TAX	14	Appeal to Board of Revenue Commissioners
2	Use of revenues	15	Certificate of judgment
	INTERPRETATION		INSPECTIONS
3	Interpretation	16	Entry inspection of premises
	LICENCES OF VENDORS	17	Same
4	Vendor to have licence	18	Failure to produce records, etc.
	TAX ON CONSUMER OR USER		SECURITY
5	Tax	19	Secrecy of officers
	EXEMPTIONS		OFFENCES AND PENALTIES
6	Exemptions	20	Tax inclusive sales prohibited
	COLLECTION OF TAX	21	Contravention of Act an offence
7	Collection of tax	22	False statement
8	Revenue officers	23	Penalties
9	Allowance for collection	24	Purchaser liable
	VENDOR'S RETURNS AND RECORDS	25	Onus of proof
10	Remittance of tax	26	Limitation of prosecutions
11	Form of return		REGULATIONS
12	Records to be kept	27	Regulations

## CHAPTER 55

### An Act for the Imposition and Collection of Taxes on Consumers and Users of Tangible Personal Property in order to raise Moneys for Educational Purposes

#### SHORT TITLE

##### Short title

1 This Act may be cited as *The Education Tax Act*.

1937, c.9, s.1; R.S.S. 1940, c.55, s.1.

#### THE EDUCATION TAX

##### Use of revenues

2 The tax imposed by this Act shall be known as The Education Tax, and the proceeds of the Tax shall be used only for expenditures incurred for educational purposes.

1937, c.9, s.2; R.S.S. 1940, c.55, s.2.

#### INTERPRETATION

##### Interpretation

3 In this Act, unless the context otherwise requires, the expression:

##### “Consumer”

1. “**Consumer**” means any person who within the province purchases from a vendor tangible personal property at a retail sale in the province for his own consumption or for the consumption of other persons at his expense, or on behalf of, or as the agent for, a principal who desires to acquire such property for consumption by such principal or other persons at his expense;

##### “Minister”

2. “**Minister**” means the Provincial Treasurer;

##### “Police officer”

3. “**Police officer**” means any member of a police force in the province;

##### “Purchaser”

4. “**Purchaser**” means any person who within the province purchases from a vendor tangible person property at a retail sale in the province;

##### “Retail sale”

5. “**Retail sale**” means a sale to a consumer or user for purposes of consumption or use, and not for resale;

**“Sale”**

6. **“Sale”** means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration, and includes any agreement of sale whether absolute or conditional, and also the furnishing, preparing or serving for a consideration of tangible personal property consumed on or in premises occupied by the person furnishing, preparing or serving such property, other than a boarding house or educational, charitable, hospitalizing or sheltering institution;

**“Tangible personal property”**

7. **“Tangible personal property”** means property which can be seen or touched, the subject matter of purchase and sale at a retail sale in the province, and includes electricity;

**“User”**

8. **“User”** means any person who within the province purchases from a vendor tangible personal property at a retail sale in the province for his own use or for the use of other persons at his expense, or on behalf of, or as the agent for a principal who desires to acquire such property for use by such principal or other persons at his expense;

**“Vendor”**

9. **“Vendor”** means any person who, within the province, and in the course of his business, or of continuous or successive acts, sells tangible personal property to a consumer or user at a retail sale in the province for purposes of consumption or use, and not for resale.

1937, c.9, s.3; R.S.S. 1940, c.55, s.3.

## LICENCES OF VENDORS

**Vendor to have licence**

4 No vendor shall sell any tangible personal property in the province at a retail sale unless he holds a licence to do so issued to him by the minister and such licence is in force at the time of the sale.

(2) The licence shall be issued without fee and shall be signed by the minister, or such other person as the minister appoints for the purpose, and, if required by the regulations, shall be kept posted up, in the manner prescribed thereby, in the place where the vendor carries on his business.

(3) The minister may cancel or suspend the licence of a vendor for his failure to comply with any of the provisions of this Act, and thereupon any other licence of the vendor issued by any authority in the province authorizing him to carry on his business shall become and be cancelled and of no effect.

1937, c.9, s.4; R.S.S. 1940, c.55, s.4.

## TAX ON CONSUMER OR USER

## Tax

5(1) Every consumer of tangible personal property purchased at a retail sale in the province shall pay to His Majesty the King for the raising of a revenue for educational purposes, at the time of making his purchase, a tax in respect of the consumption of such property, and such tax shall be computed at the rate of two per cent. of the value of the property to be consumed.

(2) Every user of tangible personal property purchased at a retail sale in the province shall pay to His Majesty the King for the raising of a revenue for educational purposes, at the time of making his purchase, a tax in respect of the use of such property, and such tax shall be computed at the rate of two per cent. of the value of the property to be used.

(3) If a vendor in the ordinary course of his business sells any tangible personal property to a person who alleges that he is not purchasing it for consumption or use, the vendor shall nevertheless require such person to deposit with him an amount equal to the tax which would be payable under this Act if the property were sold to a consumer or user as herein defined, but the minister shall refund the deposit on receipt of evidence satisfactory to him that the property was purchased for the purpose of resale by a licensed vendor.

(4) Every person residing or ordinarily resident or carrying on business in Saskatchewan who brings into the province or who receives delivery in the province of tangible personal property for his own consumption or use, or for the consumption or use of other persons at his expense, or on behalf of or as agent for a principal who desires to acquire such property for consumption or use by such principal or other persons at his expense, shall immediately report the matter to the minister or his appointee and forward or produce to him the invoice, if any, in respect of such property and any other information required by him with respect to the property, and shall pay the same tax in respect of the consumption or use of such property as would have been payable if the property had been purchased at retail in the province at the same price.

(5) If the purchase price of any article or articles of tangible personal property purchased by a consumer or user at a retail sale at one and the same time from any vendor exceeds the sum of fourteen cents but does not exceed the sum of seventy-four cents, the consumer or user shall pay a minimum tax of one cent in respect of the consumption or use of such property. No tax shall be payable where the price of the property purchased does not exceed fourteen cents unless such property forms part of several items purchased at one and the same time and deemed to be one purchase within the meaning of subsection (6).

(6) Subject to the provisions contained in subsection (5) the tax shall be computed to the nearest cent, and one-half cent shall be considered one cent, but where on the same occasion or as part of one transaction several items of tangible personal property are purchased the total of the purchases shall be deemed one purchase for the purposes of this Act.

## EXEMPTIONS

**Exemptions**

**6** There are hereby specifically exempted from the provisions of this Act and from the computation of the amount of tax leviable or payable by the consumer or user in respect of the consumption or use of tangible personal property, the following classes of tangible personal property sold at retail sales in the province, that is to say:

Bread; flour; milk, including butter milk; cream; butter; eggs; sugar; fresh meat; fresh poultry; fresh fish; water; coal; wood; newspapers; bibles; testaments; prayer books; missals; hymn books; gasoline taxable under *The Fuel Petroleum Products Act*; farm implement and parts; farm machinery and parts; grain and mill feeds; binder twine; fishing nets; agricultural products (including live stock) produced within the province when sold by the producer thereof; and railway rolling stock, ties and steel rails.

1937, c.9, s.6; 1939, c.10, s.2; R.S.S. 1940, c.55, s.6.

## COLLECTION OF TAX

**Collection of tax**

**7** Every vendor at the time of a retail sale of tangible personal property to a consumer or user shall levy and collect the tax imposed by this Act upon the consumer or user.

1937, c.9, s.7; R.S.S. 1940, c.55, s.7.

**Revenue officers**

**8** Every vendor and every person authorized to collect or receive taxes from a vendor shall be a revenue officer within the meaning of *The Treasury Department Act* and shall be subject to such duties and liabilities of a revenue officer under that Act.

1937, c.9, s.8; R.S.S. 1940, c.55, s.8.

**Allowance for collection**

**9** The minister may make an allowance to the vendor for his services in collecting and forwarding the tax to the minister, which allowance shall be determined by the Lieutenant Governor in Council.

1937, c.9, s.9; R.S.S. 1940, c.55, s.9.

## VENDOR'S RETURNS AND RECORDS

**Remittance of tax**

**10** On or before the twentieth day of each month every vendor shall forward to the minister, or to such official as he may appoint for the purpose, the amount of the tax which he has collected during the preceding month.

1937, c.9, s.10; R.S.S. 1940, c.55, s.10.

**Form of return**

**11** Every vendor shall with each monthly payment furnish to the minister or to the said official, as the case may require, a return of all retail sales, which return shall be in the form and verified in the manner prescribed by the regulations.

1937, c.9, s.11; R.S.S. 1940, c.55, s.11.

**Records to be kept**

**12(1)** The minister may require vendors to keep in a prescribed form records of all purchases and sales of tangible personal property by them and to forward to him such records or extracts therefrom at such times and in such manner as he deems fit.

(2) A vendor who fails or refuses to keep such records or to forward the same or extracts therefrom, when required by the minister to do so, shall be guilty of an offence.

1937, c.9, s.12; R.S.S. 1940, c.55, s.12.

## RECOVERY OF TAX

**Proceedings where tax not paid over**

**13(1)** Whenever a vendor fails to make a return or remittance as required by this Act, or the returns of a vendor are not substantiated by his records, the Provincial Tax Commission may make an estimate of the amount of the tax collected by the vendor for which he has not accounted and may give notice in writing to the vendor, his heirs, administrators, executors or assigns, requiring that such estimated amount shall be paid over to the commission or otherwise accounted for within thirty days from the date on which the notice is served or mailed.

(2) The notice may be served personally on the vendor or mailed to him by registered post. Service shall be sufficiently proved by the affidavit of the person by whom the notice is served or mailed and there shall be exhibited to such affidavit a copy or duplicate of the notice and, in addition, in case of service by registered post, the postmaster's receipt for the envelope containing the notice.

(3) The notice shall be *prima facie* evidence that the amount stated therein is due and owing and the onus of proving otherwise shall rest on the vendor.

1939, c.5, s.7; R.S.S. 1940, c.55, s.13.

**Appeal to Board of Revenue Commissioners**

**14(1)** If a vendor disputes liability for the amount stated in the notice he may personally or by his agent, within one month after the date of service or mailing of the notice, serve a notice of appeal upon the Board of Revenue Commissioners.

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

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

(4) Upon receipt of the notice the board shall duly consider the matter and affirm or amend the estimate of the commission and forthwith notify the appellant of its decision by registered post.

1939, c.5, s.7; R.S.S. 1940, c.55, s.14.

**Certificate of judgment**

**15(1)** After the expiry of one month from the date of service or mailing of the notice referred to in section 13 and in the absence of notice of appeal to the board as provided in section 14, or after the expiry of one month from the decision of the board and in the absence of further notice of appeal, the amount at which collections of the tax were estimated by the commission or determined by the board, as the case may require, may be certified by the commission.

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

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

1939, c.5, s.7; R.S.S. 1940, c.55, s.15.

## INSPECTIONS

**Entry inspection of premises**

**16** Any officer appointed by the minister for the purpose or any police officer who holds the written authority of the minister to do so may enter upon the premises occupied by any vendor in order to verify that the tax is being duly paid and collected, or to inspect and examine the books, records or documents of the vendor, or for the purpose of ascertaining the quantities of tangible personal property on hand or sold by him; and the vendor shall answer all questions relating to these matters and shall produce to the minister or officer or police officer such books, records and documents as are required.

1937, c.9, s.13; R.S.S. 1940, c.55, s.16.

**Same**

**17** If the minister or any officer appointed by him for the purpose of any police officer has cause to believe that any person has or had in his possession any tangible personal property in respect of the consumption or use of which the tax was payable but has not been paid, he may if authorized by warrant so to do enter upon the premises occupied by such person and make such inquiries and searches as are deemed necessary, and may interrogate such person concerning tangible personal property which he has purchased; and such person shall produce for inspection by the minister or officer or police officer any tangible personal property in his possession and answer any questions relating thereto.

1937, c.9, s.14; R.S.S. 1940, c.55, s.17.

**Failure to produce records, etc.**

**18** Every person interrogated by the minister or his appointee under section 16 or section 17 who refuses to answer any question put to him respecting the tangible personal property kept or had on the premises, or who fails to produce for inspection any book, record or document or any parcel, box, barrel, tank or other receptacle, in his possession or under his control, which he is required to produce for purposes of inspection, shall be guilty of an offence.

1937, c.9, s.15; R.S.S. 1940, c.55, s.18.



## SECRECY

**Secrecy of officers**

**19(1)** No return made by a vendor under this Act shall be open to inspection except by officers of the Treasury Department whose duty it is to inspect the same, the Board of Revenue Commissioners and any person authorized by the Lieutenant Governor in Council to inspect it.

(2) No person employed in the public service of the province and no police officer shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under the provisions of this Act, or allow any person not legally entitled thereto to inspect or have access to any return made under the provisions of this Act.

1937, c.9, s.16; R.S.S. 1940, c.55, s.19.

## OFFENCES AND PENALTIES

**Tax inclusive sales prohibited**

**20** No vendor shall advertise or hold out or state to the public or to any consumer or user, directly or indirectly, that the tax or any part thereof imposed by this Act will be assumed or absorbed by the vendor or that it will not be considered as an element in the price to the consumer or user or, if added, that it or any part thereof will be refunded.

1937, c.9, s.17; R.S.S. 1940, c.55, s.20.

**Contravention of Act an offence**

**21** Every person contravening any of the provisions of this Act or the regulations made thereunder shall be guilty of an offence.

1937, c.9, s.18; R.S.S. 1940, c.55, s.21.

**False statement**

**22** Every person who makes a false statement in any form or return prescribed by this Act or the regulations made thereunder shall be guilty of an offence.

1937, c.9, s.19; R.S.S. 1940, c.55, s.22.

**Penalties**

**23** Every person guilty of an offence under this Act shall, in addition to any penalties to which he may be liable under *The Treasury Department Act*, be liable on summary conviction to a fine of not less than \$10 nor more than \$500 and costs and in default of payment to imprisonment for a term not exceeding three months; but nothing contained in this section nor the enforcement of any penalty hereunder shall suspend or affect any remedy for the recovery of any tax or amount payable under this Act.

1937, c.9, s.20; R.S.S. 1940, c.55, s.23.

**Purchaser liable**

**24** The consumer or user shall be and remain liable for the tax imposed by this Act until the same has been collected and, in the event of failure on the part of the vendor to collect the tax, the consumer or user may be sued therefor in any court of competent jurisdiction.

1937, c.9, s.21; R.S.S. 1940, c.55, s.24.

**Onus of proof**

**25** In any prosecution for failure to pay the tax or to collect or forward the tax, the onus of proving that the tax was paid, collected or forwarded, as the case may be, to the minister or his appointee, shall be upon the accused.

1937, c.9, s.22; R.S.S. 1940, c.55, s.25.

**Limitation of prosecutions**

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

1939, c.10, s.3; R.S.S. 1940, c.55, s.26.

## REGULATIONS

**Regulations**

**27(1)** For the purpose of carrying into effect the provisions of this Act according to their true intent or of supplying any deficiency therein, the Lieutenant Governor in Council may make such regulations not inconsistent with the spirit of this Act as are considered necessary or advisable.

(2) Without limiting the generality of the provision contained in subsection (1) the Lieutenant Governor in Council may make regulations:

- (a) prescribing the forms to be used for the purposes of this Act or the regulations;
- (b) prescribing the records of sales of tangible personal property and other records to be kept by vendors;
- (c) prescribing penalties for the violation of the regulations;
- (d) prescribing the method of collection of the tax and any other conditions or requirements affecting such collection;
- (e) prescribing that, in the event of returns not being made promptly by vendors within the statutory period, no remuneration shall be payable;
- (f) defining any expression used in this Act and not herein defined.

(3) Such regulations shall have the same force and effect as if enacted by this Act, and shall be published in *The Saskatchewan Gazette*.

1937, c.9, s.23; R.S.S. 1940, c.55, s.27.

NOTE:—See *The Provincial Tax Commission Act (Cap.35)* sections 12 and 13.