



ANNO DECIMO SEXTO

GEORGII V REGIS.

A.D. 1925.

No. 1681.

An Act to impose a Tax upon the Income of Vendors of Motor Spirit, and for other purposes.

[Assented to, November 30th, 1925.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:—

1. This Act may be cited as the "Taxation (Motor Spirit Vendors) Act, 1925," and shall come into operation on a day to be fixed by proclamation. Short title and commencement.

2. (1) In this Act, unless the context otherwise requires or some other meaning is clearly intended— Interpretation.

"Motor spirit" means petrol, naphtha, gasoline, benzol, benzoline, benzine, shale spirit, and industrial alcohol, and any other liquid declared by proclamation to be motor spirit:

"Vendor" means every person who sells and delivers motor spirit within the State to persons within the State for the first time after the entry of such motor spirit into the State, or, as the case may be, after the production, refinement, manufacture, or compounding of such motor spirit within the State, but does not include any purchaser of such motor spirit who subsequently sells the same.

(2) The Governor may, by proclamation, vary the definition of "motor spirit" contained in this section, and may include any additional liquid therein, or omit therefrom any liquid for the time being included.

Taxation (Motor Spirit Vendors) Act.—1925.

Duty of vendors to register.

3. (1) Every vendor shall, within one month from the commencement of this Act or within one month from commencing to carry on business as a vendor, whichever is later, register his name and the prescribed particulars with the Commissioner of Taxes.

(2) Registration shall be effected by the Commissioner of Taxes upon application made to him for the purpose without payment of any fee.

(3) If any vendor, after the expiration of one month from the commencement of this Act or from the date of his commencing to carry on the business of a vendor,

(a) carries on the business of a vendor ; or

(b) sells any motor spirit,

without being registered under this Act, he shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding One Hundred Pounds ; and in the case of an offence against paragraph (a) shall be liable to an additional penalty of Fifty Pounds for every day on which business is carried on in contravention of this section.

Duty of vendor to file quarterly returns.

4. (1) Every vendor shall, during the period of twenty-eight days next succeeding the first day of January, the first day of April, the first day of July, and the first day of October in each year, file with the Commissioner of Taxes a return verified by the statutory declaration of the vendor or of some person in his employ, showing the total number of gallons of motor spirit sold by such vendor within the State (excluding motor spirit sold for delivery in or transportation to any place outside the State) during the period of three months next preceding such first day of January, first day of April, first day of July, or first day of October : Provided that no vendor shall be required to include in any return under this section any motor spirit sold and delivered by such vendor before the commencement of this Act.

(2) Every vendor shall, within fourteen days after the filing of the return required by this section, pay to the Commissioner of Taxes in addition to any other income tax payable by such vendor an income tax calculated at the rate of Three Pence for every gallon of motor spirit sold as aforesaid.

(3) Any motor spirit delivered after the commencement of this Act in pursuance of a contract of sale made before the commencement of this Act shall be deemed to be sold after the commencement of this Act and shall be included in the return for the period during which the delivery took place, and taken into account in computing the amount of tax : Provided that the seller of any motor spirit pursuant to any such contract may add to the price agreed to be paid for the motor spirit the sum of Three Pence per gallon, and the purchaser shall be liable to pay to the seller the sum so added in addition to the agreed price.

5. (1) If

Taxation (Motor Spirit Vendors) Act.—1925.

5. (1) If any motor spirit which has been included in a return lodged under the next preceding section as having been sold by a vendor has not been paid for by the purchaser thereof, and the vendor has written off the amount owing to him for such motor spirit as a bad debt, or credited the purchaser with such amount as an allowance for leakages, such vendor may at the time of filing any subsequent return under the next preceding section, lodge with the Commissioner of Taxes a statement showing the number of gallons of motor spirit the amount owing in respect of which has been written off or credited to the purchaser as aforesaid during the period to which the return relates.

Refund of tax paid in respect of motor spirit not paid for.

(2) If the Commissioner of Taxes is satisfied as to the truth of the declaration he may make to the vendor a refund of Three Pence for every gallon mentioned in the statement.

6. (1) If any vendor fails to lodge any return as or when required by section 4 of this Act, he shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding One Hundred Pounds and an additional penalty not exceeding Fifty Pounds for every day on which the default continues.

Penalty on failure to lodge returns.

(2) If any vendor carries on business—

(a) after the time for lodging a return under section 4 of this Act without having lodged the return required by that section; or

(b) after the time for paying the tax under section 4 of this Act without having paid such tax,

he shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding Fifty Pounds for every day on which he carries on business in contravention of this subsection.

7. (1) In this section “consumer” means any person who uses any motor spirit which he has purchased or obtained outside the State for the purpose of propelling any motor vehicle on any street or road within the State.

Tax payable by persons in respect of motor spirit obtained outside and used inside the State

(2) Every consumer shall during the period of twenty-eight days next succeeding the first day of January, the first day of April, the first day of July, and the first day of October in each year file with the Commissioner of Taxes a return in the prescribed form verified by a statutory declaration showing the total number of gallons of motor spirit purchased or obtained by such consumer outside the State and used during the period of three months next preceding such first day of January, first day of April, first day of July, or first day of October by such consumer for the purpose of propelling any motor vehicle on any street or road within the State: Provided that no person shall be required to furnish a return in respect of any period of three months if the total amount of motor spirit purchased or obtained by him outside the State and used during the said period for the purpose of propelling any motor vehicle on any street or road within the State does not exceed ten gallons:

Provided

Taxation (Motor Spirit Vendors) Act.—1925.

Provided also that no person shall be required to include in any return under this section any motor spirit used for the purpose aforesaid prior to the commencement of this Act.

(3) Every consumer shall, within fourteen days after the filing of the return required by this section, pay to the Commissioner of Taxes a tax calculated at the rate of Three Pence per gallon on every gallon of motor spirit purchased or obtained and used by the consumer as aforesaid.

(4) If any consumer fails to comply with any requirement of this section he shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding One Hundred Pounds.

(5) In any proceedings for an offence against this section the allegations in the complaint shall be deemed proved unless the defendant satisfies the Court to the contrary.

Repayments when motor spirit not used in motor vehicles.

8. (1) Any person may, in the month of January or July in any year, file with the Commissioner of Taxes a return in the prescribed form verified by a statutory declaration, showing the number of gallons of motor spirit purchased by such person within the State during the period of six months immediately preceding the commencement of such month of January or July, and used by him during such period for any purpose other than the propelling of motor vehicles on roads or streets within the State.

(2) The Commissioner of Taxes shall if he is satisfied as to the truth of the declaration, pay to the person filing the return the sum of Three Pence for every gallon of such motor spirit proved to his satisfaction to have been used as aforesaid.

(3) No payment shall be made by the Commissioner of Taxes under this section in respect of any motor spirit unless he is satisfied that the first sale of such motor spirit after its entry into the State took place after the commencement of this Act.

Penalty on false returns.

9. If any person lodges or files any false return or statement under this Act he shall be guilty of a misdemeanor punishable in the same manner as wilful and corrupt perjury.

Civil proceedings for recovery of tax.

10. Any tax payable under this Act may be recovered by the Commissioner of Taxes in any Court of competent jurisdiction. The right of the Commissioner to recover such tax shall not be affected by the fact that the person liable to pay the tax has incurred any other liability under this Act in respect of non-payment thereof.

Liability of attorney, agents, and manager for breaches of Act.

11. If any person being—

(i.) a foreign company ; or

(ii.) a person not resident in the State ; or

(iii.) a

Taxation (Motor Spirit Vendors) Act.—1925.

(iii.) a firm or association consisting of persons not resident in the State,

commits an offence against this Act, then—

- (a) the attorney or agent in South Australia of such person ;
and
(b) the manager of the business of such person in South Australia,

shall be guilty of the same offence against this Act as such person, and shall be punishable accordingly, but not more than one person shall be punished in respect of the same act or default.

12. All proceedings in respect of offences against this Act shall be disposed of summarily. Summary proceeding for offences.

13. (1) The allegation in a complaint for any offence against this Act that any person therein mentioned is a vendor shall be *prima facie* evidence of that fact. Evidentiary provision.

(2) In any proceedings for an offence against this Act any liquid sold by a vendor shall, until the contrary is proved, be deemed to be motor spirit.

14. (1) The Commissioner of Taxes or any officer authorised by him for the purpose may, for the purposes of this Act, at any time enter into or upon any buildings or premises and inspect and make extracts from or copies of any books, documents, and papers in such buildings or premises, and may inspect and compute the quantity of any motor spirit in or upon such buildings or premises. Power of Commissioner to enter buildings, &c.

(2) Any person refusing to permit the Commissioner to exercise any of his powers under this section, or in any way hindering or obstructing such exercise shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding One Hundred Pounds.

15. No declaration made pursuant to this Act shall be chargeable with stamp duty. Declarations exempt from stamp duty.

16. All money received by the Commissioner of Taxes in payment of tax due under this Act shall be paid by the Commissioner as soon as practicable after the receipt thereof into the Main Roads Fund established under the Highways Act, 1925. Appropriation of tax.

17. The Governor may make all such regulations not inconsistent with this Act as are necessary for carrying this Act into operation, and may by any regulation impose a penalty not exceeding £50 for breach of the same or any other regulation. Regulations.

18. (1) The Commissioner of Taxes and every assessor, collector, officer, clerk, and other person concerned in the administration of this Duty of officers to observe secrecy.

Taxation (Motor Spirit Vendors) Act.—1925.

this Act shall keep secret all matters that come to his knowledge in the course of his duty or employment in connection with the administration of this Act, and shall not communicate any such matter to any person or reveal the same in any way except for the purpose of carrying into effect the provisions of this Act.

(2) Any person who is guilty of any contravention of subsection (1) hereof shall be liable to be imprisoned for any term not exceeding two years.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

TOM BRIDGES, Governor.