

Bill No. 41 of 1947.

A BILL RESPECTING THE TAXATION OF
CORPORATIONS

NOTE.

This Bill is proposed as part of the arrangements being negotiated between the Governments of Canada and Alberta with respect to the suspension of the levying of certain taxes by the Province, and is introduced at the request of the Dominion Government. Similar Bills have been or will be introduced in the Legislatures of all the Provinces which have completed or expect to complete tax agreements with the Dominion. This Bill is drawn to come into force on Proclamation.

Part I defines "income"; Part II deals with exemptions and deductions; Part III has special provisions relating to chief business of the corporation, income from estates, etc.

Part IV contains the charging provisions and section 26 fixes the rate of tax at five per cent of that portion of the income of the corporation attributable to its operations in Alberta.

Part V deals with the payment of the tax, time of payment, etc.

Part VI deals with the procedure as to assessment.

Part VII deals with appeals and procedure, while Part VIII sets out the remedies of the Crown in enforcing payment of the tax.

Part IX deals with administration and places the administration of the Act with the Provincial Treasurer.

Part X deals with offences and penalties.

The Schedule sets out the method of determining the portion of the income of a corporation properly attributable to its operations in Alberta.

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Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 41 of 1947.

An Act Respecting the Taxation of Corporations.

(Assented to , 1947.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

SHORT TITLE.

1. This Act may be cited as "*The Alberta Corporation Income Tax Act.*"

INTERPRETATION.

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

- (a) "fiscal year" means the period, not exceeding twelve months, for which the accounts of the business of the corporation have been, or are ordinarily made up and accepted for purposes of assessment under this Act, and in the absence of such an established practice the fiscal period shall be that which the corporation adopts, except that if a corporation purports to change its usual and accepted fiscal period the Provincial Treasurer may in his discretion disallow such change;
- (b) "personal corporation" means a corporation, irrespective of when or where created, whether in Canada or elsewhere, and irrespective of where it carries on its business or where its assets are situate, controlled, directly or indirectly, by one individual who resides in Canada, or by one such individual and his wife or any member of his family, or by any combination of them or by any other person or corporation or any combination of them on his or their behalf, and whether through holding a majority of the stock of such corporation or in any other manner whatsoever, the gross revenue of which is to the extent of one-quarter or more derived from one or more of the following sources namely:
 - (i) From the ownership of or the trading or dealing in bonds, stocks or shares, debentures, mortgages, hypothecs, bills, notes or other similar property;
 - (ii) From the lending of money, with or without security, or by way of rent, hire of chattels, charter party fees or remuneration, annuity, royalty, interest, or dividend; or

- (iii) From or by virtue of any right, title or interest in or to any estate or trust;

Provided that this paragraph shall not extend to a corporation that otherwise qualifies under this paragraph, but that in the opinion of the Provincial Treasurer carries on an active financial, commercial or industrial business, and the decision of the Provincial Treasurer on this question shall be final and conclusive; and

- (c) "scientific research" means any activity in the field of natural or applied science for the extension of knowledge.

PART I.

INCOME.

INCOME DEFINED.

3.—(1) For the purposes of this Act, "income" means the annual net profit or gain or gratuity, whether ascertained and capable of computation, or unascertained as being fees or emoluments, or as being profits from a trade or commercial or financial or other business or calling, directly or indirectly received by a corporation whether derived from sources within the Province or elsewhere; and shall include the interest, dividends or profits directly or indirectly received from money at interest upon any security or without security, or from stocks, or from any other investment, and whether such gains or profits are divided or distributed or not, and also the annual profit or gain from any other source including,—

- (a) the income from but not the value of property acquired by gift, bequest or devise;
- (b) annuities received under a contract except a portion of each amount received thereunder that bears the same relation to the whole amount as the amount that the annuitant could, under the contract, have chosen to receive in lieu of the annuity or, if no such choice is provided by the contract, the present value (computed in such manner as the Provincial Treasurer may by regulation prescribe) of the annuity at the time of commencement thereof, bears to the aggregate (computed in the case of an annuity limited by reference to a life on the assumption that the life will continue during the period of its normal expectation calculated in accordance with mortality tables approved by the Provincial Treasurer) of the annuity for which the contract provides;

Provided that this provision shall not be construed to prejudice the operation of subsection (2) of this section;

- (c) rents, royalties, annuities or other like periodical receipts which depend upon the production or use of any real or personal property, notwithstanding that the same are payable on account of the use or sale of any such property;
- (d) all annuities and other annual payments received under the provisions of a will or trust irrespective of the day on which the will or trust became effective and notwithstanding that the payments are payable at intervals longer or shorter than a year except a payment or portion thereof which can be established by the recipient not to have been paid out of the income of the estate or trust.

(2) Where under any existing or future contract or arrangement for the payment of money, the Provincial Treasurer is of opinion that, —

- (a) payments of principal money and interest are blended; or
- (b) payment is made pursuant to a plan which involves an allowance of interest,—

whether or not there is any provision for payment of interest at a nominal rate or at all, the Provincial Treasurer shall have the power to determine what part of any such payment is interest and the part so determined to be interest shall be deemed to be income for the purposes of this Act.

PART II.

EXEMPTIONS AND DEDUCTIONS.

EXCEPTED INCOMES.

4. The following incomes shall not be liable to taxation hereunder:

- (a) The income of any corporation not less than ninety per cent of the stock or capital of which is owned by a province or a municipality;
- (b) The income of any religious, charitable, agricultural and educational institution, board of trade and chamber of commerce, no part of the income of which enures to the personal profit of, or is paid or payable to any proprietor thereof or shareholder therein;
- (c) The income of labour organizations and societies and of benevolent and fraternal beneficiary societies and orders;
- (d) The income of mutual corporations not having a capital represented by shares, no part of the income of which enures to the benefit of any member thereof, except mutual insurance corporations that do not

derive their premiums wholly from the insurance of churches, schools or other religious, educational or charitable institutions;

- (e) The income of life insurance corporations except such amount as is credited to shareholders' account;
- (f) The income of clubs, societies and associations organized and operated solely for social welfare, civic improvement, pleasure, recreation or other non-profitable purposes, no part of the income of which enures to the benefit of any stockholder or member;
- (g) The income of such insurance, mortgage and loan associations operated entirely for the benefit of farmers as are approved by the Provincial Treasurer;
- (h) The income of personal corporations except that portion of their income that is deemed to be distributed to persons not resident in Canada;
- (i) The income derived from any bonds or other securities of the Dominion of Canada issued exempt from any income tax imposed in pursuance of any legislation enacted by the Parliament of Canada;
- (j) The income of corporations (except personal corporations),—
 - (i) whose business operations are of an industrial, mining, commercial, public utility or public service nature, and are carried on entirely outside of Canada, either directly or through subsidiary or affiliated corporations, and whose assets (except securities acquired by the investment of accumulated income and such bank deposits as may be held in Canada) are situate entirely outside of Canada, including wholly owned subsidiary corporations that are solely engaged in the prosecution of the business outside of Canada of the parent company; or
 - (ii) whose business operations are of an investment or financial nature and carried on entirely outside of Canada, and whose shares have been offered for public subscription or are listed on any recognized stock exchange in Canada or elsewhere, and whose assets (except such bank deposits as may be held in Canada and except shares of other corporations conforming to the requirements of this paragraph (j)) are situate entirely outside of Canada. Shares, stocks, or bonds of Canadian corporations shall, for the purposes of this paragraph (j), be deemed to be assets within Canada notwithstanding that they may be or have been transferred on any register outside of Canada;

Provided that such corporations file annually a fully completed return, on the form prescribed, within four months from the close of their fiscal year. If any such corporation without reasonable

cause therefor, of which the Provincial Treasurer shall be the judge, should fail to file the said annual return within the time prescribed, it shall be liable to the tax provided for in this Act;

(k) The income from the operation of ships or aircraft owned or operated by a corporation not resident in Canada, if the country where such corporation resides grants an exemption in respect of income earned therein from the operation of ships or aircraft owned or operated by a corporation resident in Canada which in the opinion of the Provincial Treasurer is fairly reciprocal to the exemption herein provided. The Provincial Treasurer may give effect to this exemption, in any case, from the date, past or future, on which the exemption, granted by the country where the corporation aforesaid resides, took effect;

(l) Dividends paid to a corporation by a corporation incorporated in Canada any part of the profits of which have been taxed under this Act or to which paragraph (r) of this section applies, except as provided by sections 18 and 24 of this Act;

(m) Dividends received by a corporation from a corporation incorporated outside of Canada to the extent that the latter corporation has earned income within Canada and actually paid a tax in respect of any part of such income under this Act; Provided that in computing the proportion or fractional part of the dividend free from taxation in the hands of a recipient corporation, as provided by this paragraph, the Provincial Treasurer's determination shall be final and conclusive;

(n) The income during the first three^{1/2} taxation years after commencement of its business, of a corporation commencing business on or after the first day of January, nineteen hundred and forty-seven, that is incorporated under provincial legislation, providing for the establishment of co-operative corporations, for the purpose of marketing, including processing incidental to or connected therewith, natural products of or acquired from its members or customers, or of purchasing supplies, or equipment or household necessities for or to be sold to its members or customers, or of performing services for its members or customers, if,—

(i) the statute under which the corporation is incorporated or its charter, articles of association or by-laws or its contracts with its members or with its members and customers hold forth the prospect that payments will be made to them in proportion to patronage;

(ii) no member of the corporation has more than one vote in the conduct of the affairs of the corporation;

- (iii) all its members are individuals;
- (iv) the rate of interest on capital subscribed by its members or dividends on shares of the corporation does not exceed five per cent per annum;
- (v) the value of the products of or acquired from, and supplies, equipment and household necessities purchased for or sold to and services performed for its customers other than members does not in the taxation year exceed twenty per cent of the total value thereof so dealt in by the corporation during the said year;
- (vi) no member of the corporation, directly or indirectly, holds shares in or has subscribed amounts by way of capital to, the corporation in excess of five per cent of the shares of the corporation issued, or of the total capital subscribed therefor; and
- (vii) the business carried on by the corporation is not, in the opinion of the Provincial Treasurer, a continuation of a previous business in which, in the opinion of the Provincial Treasurer, a substantial number of members of the corporation had a substantial interest, either as shareholders of a corporation carrying on the previous business or otherwise;
- (o) the income of a corporation incorporated as a credit union or co-operative credit society, if,—
 - (i) the corporation derives its revenue primarily from loans made to members residing within the territorial limits within the province to which it is restricted for the carrying on of its business; or
 - (ii) the members thereof are corporations or associations incorporated or organized as credit unions which derive their revenues primarily from loans made to their members or under provincial co-operative legislation or for religious, educational or charitable purposes or corporations or associations, no part of the income of which enures to the benefit of any member thereof;
- (p) dividends received, directly or through any other subsidiary corporation, by a corporation incorporated in Canada whose shares are held by the public, from a wholly owned (less directors' qualifying shares) subsidiary corporation not resident in Canada, if the Provincial Treasurer is satisfied that at least seventy-five per cent of the combined capital of such Canadian corporation and all of its wholly owned subsidiary corporations is employed directly or indirectly outside of Canada;

Provided, however, that the exemption hereunder shall be allowed only if and to the extent that the

country in which the subsidiary corporation is carrying on business grants substantially similar relief to corporations incorporated therein in respect of dividends received from subsidiary corporations carrying on business in Canada;

And provided further that the exemption allowed hereunder in any one fiscal year of such Canadian corporation shall be limited in the aggregate to an amount equal to the sum of the profits of the subsidiary corporation subject to income tax abroad in the fiscal year of and in the fiscal year next preceding the declaration of such dividend;

And provided further that "capital" for the purposes of this paragraph means all assets owned or employed in the business of such Canadian corporation and all of its wholly owned subsidiary corporations, other than all inter-company obligations between such corporations and any good-will;

(q) dividends paid to a corporation incorporated in Canada by a corporation that has never paid a tax on its income under legislation of Canada or the province by reason of provisions in such legislation allowing a deduction or exemption from tax on income derived from operation of base metals, strategic mineral, metalliferous and industrial mineral mines during the first three years of production;

(r) the income of a corporation,—

(i) whose capital throughout the taxation year is, to the extent of eighty per cent or more, invested in stocks, bonds or securities or held in cash;

(ii) whose gross income during the taxation year is, to the extent of not less than ninety-five per cent derived from investments mentioned in clause (i) of this paragraph;

(iii) whose capital is throughout the taxation year, to the extent of not more than ten per cent thereof, invested in the stocks, bonds or securities of any one corporation or debtor other than His Majesty in right of Canada or of any province or of a Canadian municipality;

(iv) whose shares are, throughout the taxation year, held by persons numbering fifty or more of whom none holds more than twenty-five per cent of the whole capital stock of the corporation;

(v) whose net income during each taxation year (other than unsold dividends or interest received otherwise than in cash) has been distributed to the shareholders within one hundred and twenty days after the close of the taxation year to the extent of eighty-five per cent or more; and

(vi) which has, throughout the taxation year, no outstanding bonds, debentures or other securities evidencing funded indebtedness;

(s) subject to any regulations deemed necessary by the Lieutenant Governor in Council to carry this paragraph into effect, the income of a corporation derived from the operation of a new or old mine,—

(i) that the Provincial Treasurer has certified came into production during the period commencing January first, 1944, and ending on December thirty-first, 1949; and

(ii) that has been determined by the Provincial Treasurer,—

(A) where he certifies that it came into production before the first day of January, 1946, to be a base metal or strategic mineral mine, or

(B) where he certifies that it came into production on or after the first day of January, 1946, to be a metalliferous mine or an industrial mineral mine operating on mineral deposits other than bedded deposits including for this purpose deposits of building stone,—

after considering whether ore is produced therein in reasonable commercial quantities, during the first three taxation years of twelve months after the day on which, in accordance with the certificate of the Provincial Treasurer it came into production, if that day is the first day of January, 1947, or later, or if the day on which, in accordance with the certificate of the Provincial Treasurer, it came into production is before the first day of January, 1947, the unexpired portion of the first three taxation years after the day it is certified that it came into production remaining after the thirty-first day of December, 1946;

(t) the income of an institutional housing corporation, an institutional holding company or a limited-dividend housing corporation within the meaning of those expressions as defined by *The National Housing Act, 1944 (Canada)*; and

(u) the income from the investment of the superannuation or pension funds of a trust established in connection with, or a corporation incorporated for the administration of, an employees' superannuation or pension fund, or plan approved by the Provincial Treasurer in respect of its constitution and operations for the taxation year; and

(v) the income of a corporation incorporated in Canada, at least ninety-five per cent of the aggregate value of whose issued shares and all of whose bonds, debentures and other securities or evidences of funded

indebtedness are beneficially owned by persons who are non-residents of Canada or are owned or held by trustees for the benefit of non-residents of Canada or their unborn issue, or by a corporation whether incorporated or domiciled in Canada or elsewhere but in all other respects conforming to the foregoing requirements of this paragraph, the gross income of which is derived from one or more of the following sources:

- (i) From the ownership of or the trading or dealing in bonds, stocks or shares, debentures, mortgages, hypothecs, bills, notes or other similar property, or any interest therein:
- (ii) From the lending of money with or without security, or by way of rent, annuity, royalty, interest or dividend;
- (iii) From or by virtue of any right, title or interest in or to any estate or trust;

Provided, however, that the definition set out in this paragraph (p) shall not include a corporation the main business of which is the making of loans of five hundred dollars or less.

DEDUCTIONS AND EXEMPTIONS ALLOWED.

5.—(1) "Income" as hereinbefore defined shall for the purpose of this Act be subject to the following exemptions and deductions:

- (a) In determining the income derived from mining and from oil and gas wells, and timber limits there may be deducted such an allowance for the exhaustion of the mines, wells and timber limits as may be fixed by regulation of the Lieutenant Governor in Council and in the case of leases of mines, oil and gas wells and timber limits the lessor and lessee shall each be entitled to deduct such part of the allowance for exhaustion as may be agreed upon between them, and in case the lessor and lessee do not agree the Provincial Treasurer shall have full power to apportion the deduction between them and his determination shall be conclusive;
- (b) such reasonable rate of interest on borrowed capital used in the business to earn the income as the Provincial Treasurer in his discretion may allow notwithstanding the rate of interest payable by the taxpayer, but to the extent that the interest payable by the taxpayer is in excess of the amount allowed by the Provincial Treasurer hereunder; it shall not be allowed as a deduction and the rate of interest allowed shall not in any case exceed the rate stipulated for in the bond, debenture, mortgage, note, agreement or other similar document, whether with or without security, by virtue of which the interest is payable;

- (c) An amount that does not exceed nine hundred dollars in respect of the services rendered to an employer by any employee, officer or director within the taxation year and has been actually paid by the employer to an employees' superannuation or pension fund or plan approved by the Provincial Treasurer in respect of its constitution and operations for the taxation year;
- (d) An amount not exceeding five per cent of the income subject to taxation of any corporation, which amount has been paid by way of donation within the taxation period to and receipted for as such by any charitable organization in Canada operated exclusively as such and not for the benefit or private gain or profit of any person;

Provided that the amount by which a corporation's charitable donations in the taxation year exceeds the greater of either,—

- (i) the average of its annual donations in the last two fiscal years ending before the first day of July, 1942;
or
- (ii) that portion of its donations made in the taxation year that has been paid before the first day of February, 1944, or has been paid pursuant to an agreement or undertaking evidenced before the said day either by an instrument in writing or by a payment that is one of a series of payments,—

shall not be deducted except a portion thereof the deduction of which diminishes the aggregate of its income tax under *The Income War Tax Act (Canada)* and its tax under *The Excess Profits Tax Act, 1940 (Canada)*, by forty per cent of the said excess;

- (e) Annual interest accruing within the taxation period in respect of succession duties or inheritance taxes;
- (f) In respect of a special payment or payments made in Canada by an employer on account of an employee's superannuation or pension fund or plan in respect of past services of employees pursuant to a recommendation by a qualified actuary in whose opinion the resources of such fund or plan require to be augmented by an amount equal to the special payment or payments to ensure that all obligations of the fund or plan to the employees concerned may be discharged in full, approved by the Provincial Treasurer and made so that an amount paid is irrevocably charged for the benefit of the fund or plan,—

- (i) if the whole amount so recommended to be paid is paid in one year, one-tenth of the payment in

each of ten successive taxation years commencing with the year in which the payment is made; and

- (ii) if one-tenth of the amount so recommended to be paid, or less, is paid pursuant to a plan whereby the whole amount is to be paid over a period of years, the amount of the payment made in the taxation year;

Provided that where a payment described in clause (i) of this paragraph has been made not more than nine years before the 1947 taxation year and is approved by the Provincial Treasurer, one-tenth thereof may be deducted in the 1947 taxation year and in each taxation year thereafter until ten successive years, beginning with the year of payment, have elapsed;

- (g) Amounts in respect of losses sustained in the three years immediately preceding and the year immediately following the taxation year, but,—

- (i) no more is deductible in respect of a loss than the amount by which the loss exceeds the aggregate of the amounts deductible in respect thereof in previous years under this Act;
- (ii) an amount is only deductible in respect of the loss of any year after deduction of amounts in respect of the losses of previous years; and
- (iii) nothing is deductible in respect of a loss unless the corporation carried on the same business in the taxation year as it carried on in the year the loss was sustained,—

if, in ascertaining the losses, no account is taken of an outlay, loss or replacement of capital, a payment on account of capital, any depreciation, depletion or obsolescence or disbursements or expenses not wholly, exclusively and necessarily laid out or expended for the purpose of earning the income, except such amount for depreciation and depletion as the Provincial Treasurer may allow for the purposes of this paragraph;

- (h) Amounts of a current nature expended in the taxation year by a corporation carrying on a business,—

- (i) on scientific research related to the business and directly undertaken by the corporation or on behalf of the corporation;
- (ii) by payment to a scientific research association approved by the Provincial Treasurer, being an association that has as its objects the undertaking of scientific research related to the class of business to which the business that the corporation is carrying on belongs; or
- (iii) by a payment to be used for such scientific research as is mentioned in clause (ii) of

this paragraph to a university, college, research institute or other similar institution approved by the Provincial Treasurer, and one-third of amounts of a capital nature expended in the manner described in clause (i) of this paragraph;

(iv) in the taxation year;

(v) in the taxation year immediately preceding the taxation year;

(vi) in the taxation year ending one year before the taxation year

but no deduction may be made under this paragraph,—

(vii) in respect of an expenditure incurred in the acquisition of rights in, or arising out of, scientific research;

(viii) exceeding in the taxation year five per cent of the income of the taxpayer subject to taxation in the taxation year preceding the taxation year unless the research programme in respect of which the expenditures were made has been approved by the Provincial Treasurer; or

(ix) if the amount of the expenditures has been deducted from income under paragraph (d) of this subsection;

(i) Such amount as the Lieutenant Governor in Council may by regulation allow in respect of taxes paid to the government of any province on income derived from mining or logging operations in that province but in the case of the 1947 taxation year no amount may be deducted greater than that proportion of the total amount of such taxes paid by the corporation during the said taxation year which the number of days of the said taxation year after the thirty-first day of December, 1946, is of the total number of days in the said taxation year.

(2) There may be deducted for the purposes of this Act from the income as hereinbefore defined of an insurance corporation other than a life insurance corporation, whether a mutual or other corporation, any amount credited to a policyholder of the insurance corporation by way of dividend, refund of premiums or refund of premium deposits and which amount is, during the taxation year, either,—

(a) paid to the policyholder;

(b) applied in discharge, in whole or in part, of any liability of the policyholder to pay premiums to the insurance corporation; or

(c) credited to the account of the policyholder on terms that he is entitled to or may obtain payment thereof within a period not exceeding thirty days after demand for payment by him, if notice of crediting upon such terms has been given to the policyholder by the insurance corporation.

(3) There may be deducted from the income as hereinbefore defined of a corporation, the aggregate of the payments made by it,—

- (a) within the taxation year or within twelve months thereafter to its customers of the taxation year; and
- (b) within the taxation year or within twelve months thereafter to its customers of a previous taxation year, the deduction of which from income of a previous taxation year was not permitted under paragraph (a) of this subsection,—

pursuant to allocations in proportion to patronage for the said years; provided that, if the corporation has not made allocations in proportion to patronage in respect of all its customers of the taxation year at the same rate, with appropriate differences for different types or classes of goods, products or services, or classes, grades or qualities thereof, the amount that may be deducted from its income under this subsection shall be,—

- (c) the aggregate of the payments previously mentioned in this subsection; or
- (d) an amount equal to the aggregate of,—
 - (i) the amount of the income of the corporation of the taxation year attributable to business done with members of the corporation; and
 - (ii) the amount of allocations in proportion to patronage made to customers of the corporation of the taxation year other than members of the corporation,—

whichever is less.

(4) Notwithstanding anything contained in subsection (3) of this section, if the amount that may be deducted thereunder would leave the corporation with an income for the purposes of this Act less than an amount determined by deducting from three per cent of the capital employed in the business at the commencement of the taxation year, the interest, if any, paid during the taxation year by the corporation on borrowed moneys (other than moneys borrowed from a bank incorporated under *The Bank Act* or from a corporation or association incorporated or organized as a credit union as described in paragraph (o) of section 4 of this Act), and deductible as an expense in computing its income, only such portion of the amount that would be so deductible may be deducted as will leave the corporation with an income for the purposes of this Act equal to the amount so determined.

(5) For the purposes of this subsection and subsections (3) and (4) of this section, unless the context otherwise requires,—

- (a) "allocation in proportion to patronage" for a taxation year means an amount credited by a corporation to a customer of the corporation of the said taxation year, on terms that the customer is entitled

to or will receive payment pursuant thereto, computed at a rate in relation to the quantity, quality or value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by, the corporation from or on behalf of or to the customer, whether as principal or as agent of the customer, or otherwise, with appropriate differences in the rate for different classes, grades or qualities thereof, if,—

(i) in respect of an amount so credited to a customer of a taxation year before the 1946 taxation year, the amount was credited before the twenty-eighth day of June, 1946; and if,—

(ii) in respect of an amount so credited to a customer of the 1946 or any subsequent taxation year, the amount is credited,—

(A) within the taxation year or within twelve months thereafter; and

(B) where the customer was a member of the corporation during the taxation year, at the same rate in relation to quantity, quality or value aforesaid as the rate at which amounts are similarly credited to all other customers of the corporation of the taxation year who were such members, with appropriate differences aforesaid; or

(C) where the customer was not a member of the corporation during the taxation year, at the same rate in relation to quantity, quality or value aforesaid as the rate at which amounts are similarly credited to all other customers of the corporation of the taxation year who were not such members, with appropriate differences aforesaid; and if,—

(iii) in respect of an amount so credited to a customer of the 1947 or of any subsequent taxation year, the prospect that amounts would be so credited was,—

(A) where the customer was a member of the corporation during the taxation year, held forth by the corporation to its customers of the said year who were members of the corporation during the taxation year; or

(B) where the customer was not a member of the corporation during the taxation year, held forth by the corporation to its customers of the said year who were not members of the corporation during the taxation year;

(b) "capital employed in the business" shall be computed in the same manner as is set out in the First Schedule to *The Excess Profits Tax Act, 1940*

(Canada), except that no deduction shall be made from capital in respect of borrowed moneys (other than moneys borrowed from a bank incorporated under *The Bank Act* or from a corporation or association incorporated or organized as a credit union as described in paragraph (o) of section 4 of this Act);

(c) "customer" includes a person who sells or delivers goods or products to a corporation, or for whom the corporation renders services;

(d) "income of the corporation attributable to business done with members of the corporation of any taxation year" means that proportion of the income of the corporation of the taxation year that the value of the goods or products acquired, marketed, handled, dealt in or sold or services rendered by the corporation from, or on behalf of, or for customers of the corporation of the taxation year who were members of the corporation, during the taxation year, is of the total value of goods or products acquired, marketed, handled, dealt in or sold or services rendered by the corporation from, or on behalf of, or for all customers of the corporation of the taxation year;

(e) "payment" includes the issue of certificates evidencing indebtedness or stock or shares of the corporation if the corporation has in the taxation year or within twelve months thereafter disbursed an amount of money equal to the face value of the said certificates, stock or shares in redeeming or purchasing certificates evidencing indebtedness or stock or shares of the corporation, respectively, previously issued by the corporation; and

(f) "member" of a corporation means a person who is entitled as a member or shareholder to full voting rights in the conduct of the affairs of the corporation.

(6) For the purpose of subsection (5) of this section a corporation shall be deemed to have held forth the prospect that amounts would be credited to its customers of the taxation year who were members of the corporation during the taxation year or to customers of the taxation year other than such members of the corporation, or to both, by way of allocations in proportion to patronage if,—

(a) throughout the taxation year the statute or statutes under which the corporation is incorporated or registered or the charter, articles of association or by-laws of the corporation or its contracts with such customers, respectively, held forth the prospect that amounts would be so credited to such customers, respectively; or

(b) prior to the commencement of the said taxation year or prior to such other date as may be prescribed by

regulation under this Act for the class of business in which the corporation is engaged, the corporation publishes an advertisement in a form prescribed by regulation under this Act, in a newspaper or newspapers of general circulation throughout the greater part of the area in which the corporation carries on business holding forth the said prospect to such customers, respectively, and files a copy or copies of the said newspaper or newspapers with the Provincial Treasurer within one month after the commencement of the taxation year or the said date, as the case may be.

(7) A corporation that, prior to the first day of October, 1946, published an advertisement in a newspaper or newspapers of general circulation throughout the greater part of the area in which it carried on business holding forth the prospect of allocations in proportion to patronage to its customers of the 1947 taxation year and who filed a copy of the said newspaper with the Minister of National Revenue (Canada) within one month after the said publication, shall be deemed to have held forth the said prospect to its customers of the 1947 taxation year.

(8) The proviso to paragraph (d) of subsection (1) of this section applies only in respect of fiscal years ending before the first day of July, 1947.

DEDUCTIONS FROM INCOME NOT ALLOWED.

6.—(1) In computing the amount of the profits or gains to be assessed, a deduction shall not be allowed in respect of,—

- (a) disbursements or expenses not wholly, exclusively and necessarily laid out or expended for the purpose of earning the income;
- (b) any outlay, loss or replacement of capital or any payment on account of capital or any depreciation, depletion or obsolescence, except as otherwise provided in this Act;
- (c) the annual value of property, real or personal, except rent actually paid for the use of such property, used in connection with the business to earn the income subject to taxation;
- (d) amounts transferred or credited to a reserve, contingent account or sinking fund, except such an amount for bad debts as the Provincial Treasurer may allow and except as otherwise provided in this Act;
- (e) carrying charges or expenses of unproductive property or assets not acquired for the purposes of a trade, business or calling or of a liability not incurred in connection with a trade, business or calling;

- (f) carrying charges of property the income from which is exempt, except to the extent that such carrying charges exceed the exempt income;
- (g) net losses sustained in the United Kingdom of Great Britain and Northern Ireland or any of the British Dominions other than Canada or any British possession or dependency, or in any foreign country, after the corporation has in respect of any such period once elected to claim, and has received, reciprocal tax relief under this Act for taxes paid to any such country in respect of profits earned therein; Provided, however, that the provisions of this paragraph shall not apply to corporations incorporated in Canada and carrying on any class of insurance business other than life insurance for which such corporations are registered or licensed under the laws of the Dominion of Canada or any province thereof;
- (h) any sums charged by any corporation or organization outside of Canada to a Canadian corporation, branch or organization, in respect of management fees or services or for the right to use patents, processes or formulae presently known or yet to be discovered, or in connection with the letting or leasing of anything used in Canada, irrespective of whether a price or charge is agreed upon or otherwise; but only if the company or organization to which such sums are payable, or the corporation in Canada, is controlled directly or indirectly by any corporation or group of corporations or persons within or without Canada, which are affiliated one with the other by the holding of shares or by agreements or otherwise; Provided that a portion of any such charges may be allowed as a deduction if the Provincial Treasurer is satisfied that such charges are reasonable for services actually rendered or for the use of anything actually used in Canada;
- (i) the distribution of earnings by any corporation to holders of its income bonds or income debentures; Provided however, in cases where such income bonds or income debentures have been issued or the income provisions thereof have been adopted since the year 1930, in consequence of an adjustment of previously existing bonds or debentures bearing an unconditional fixed rate of interest, which adjustment, to the satisfaction of the Provincial Treasurer, was occasioned by financial difficulties of the debtor corporation or its predecessor and was intended to afford some relief to the said debtor corporation or its predecessor, then the provisions of this paragraph shall not apply.
- (j) the salary, bonus, director's fee or other remuneration in excess of fourteen thousand dollars paid by a corporation incorporated in Canada to a non-

resident of Canada, unless such non-resident pays tax thereon under subsection (1) of section 9 of *The Income War Tax Act (Canada)*;

(k) depreciation, except such amount as the Provincial Treasurer in his discretion may allow, including,—

(i) such extra depreciation as the Provincial Treasurer in his discretion may allow in the case of plant or equipment built or acquired to fulfil orders for war purposes; and

(ii) depreciation at not more than double the rates normally allowed in respect of plant or equipment of such class or classes as may be determined by the Lieutenant Governor in Council built or acquired in a period to be fixed by the Lieutenant Governor in Council for the purposes of this paragraph, if the corporation is, in the opinion of the Provincial Treasurer, making a new investment by building or acquiring the plant or equipment;

Provided, however, that the Provincial Treasurer shall not allow a deduction in respect of depreciation of assets owned by a corporation from the income of the said corporation if he is satisfied that the said corporation directly or indirectly had or has a controlling interest in a corporation that was previously the owner of the said assets or that the said previous owner (which term shall include a series of owners) directly or indirectly had or has a controlling interest in the said corporation or that the said corporation and the previous owner were or are directly or indirectly subject to the same controlling interest and that the aggregate amount of deductions which have been allowed to the said corporation and/or the said previous owner in respect of the depreciation of such assets is equal to or greater than the cost of the said assets to the said previous owner or to the first of the previous owners where more than one;

Provided further that in the case of the sale of immovable assets (not including machinery or equipment) in respect of which special depreciation has been allowed, the Provincial Treasurer may revise the assessments of the vendor for the years when the special depreciation was allowed, by disallowing as a deduction a *pro rata* portion of the special depreciation allowed to the corporation in each of the said years, to the extent of the excess of the selling price over the depreciation cost of the said assets, less the amount of depreciation normally allowed on the said assets, and less the excess, if any, of the selling price over the undepreciated cost of the said assets;

And provided further that in the case of a sale of plant or equipment in respect of which depreciation

has been allowed under clause (ii) of this paragraph, the Provincial Treasurer may revise the assessments of the vendor for the years when the special depreciation was allowed, by disallowing as a deduction a *pro rata* portion of the depreciation so allowed in each of the said years to the extent of the excess of the selling price over the depreciated cost of the said plant or equipment, less the amount of depreciation normally allowed on such plant or equipment, and less the excess, if any, of the selling price over the undepreciated cost of the plant or equipment;

And provided further that as used in the second proviso to this paragraph, the term "special depreciation" means depreciation allowed under clause (i) of this paragraph and other special depreciation or allowances in lieu of depreciation except depreciation allowed under clause (ii) of this paragraph, that are in excess of depreciation normally allowed; and the term "depreciated cost" as used in this paragraph means cost to the corporation less special depreciation and any other depreciation allowed under this paragraph;

- (1) any corporation tax paid to the government of a province except any such tax to such extent as the Provincial Treasurer may allow as a royalty or rental on natural resources in the province.
- (2) The Provincial Treasurer may disallow any expense that he in his discretion may determine to be in excess of what is reasonable or normal for the business carried on by the corporation, or that was incurred in respect of any transaction or operation that in his opinion has unduly or artificially reduced the income.
- (3) Expenses incurred by a corporation to earn non-taxable income shall not be allowed as a deduction in computing income for the purposes of this Act, and where general expenses are incurred to earn both taxable and non-taxable income the Provincial Treasurer shall have power to apportion the said expenses.
- (4) For the purpose of paragraph (1) of subsection (1) of this section "corporation tax" means any tax or fee other than a tax on net income, the imposing of which in the opinion of the Provincial Treasurer singles out for taxation or for discriminatory rates or burdens of taxation, either formally or in effect, corporations or any class or classes thereof or any individual corporation, but does not include,—
 - (a) a license or other fee or tax for specific rights, benefits or franchises granted by a municipality or where they are to be exercised or enjoyed only in territory not included in any municipality by any authority, including the government of the province, having jurisdiction in such territory;

- (b) an assessment under any Workmen's Compensation Act;
- (c) a business or occupancy tax based on floor space or on the rental or assessed value of property or on gross receipts from all or part of the business or on any other similar basis, imposed by a municipality or, in territory not included in any municipality, by any authority, including the government of a province having jurisdiction in such territory, and
- (d) a provincial license, registration, filing, or other fee not in excess of two hundred and fifty dollars for a corporation in any year, and any such fee that is in excess of two hundred and fifty dollars for a corporation in any year, designated by the Provincial Treasurer as not being a corporation tax.

(5) A corporation may not deduct from its income for the year of expenditure more than the amount deducted from its income for that year in respect of maintenance and repairs or underground development under the *Income War Tax Act (Canada)*.

DEDUCTIONS FROM TAXES ALLOWED.

7.—(1) A corporation may deduct from the tax otherwise payable under this Act the amount paid to the United Kingdom of Great Britain and Northern Ireland, to any of His Majesty's self-governing dominions other than Canada or dependencies or to a foreign country for income tax in respect of the income of the corporation derived from sources therein, but such deductions shall not at any time exceed the amount of the tax that would otherwise be payable under this Act in respect of the said income derived from the said sources.

(2) A corporation may deduct from the tax otherwise payable by it under this Act in respect of its fiscal year ending in the calendar year 1947 an amount that is in the same ratio to the said tax otherwise payable as the number of days in that fiscal year prior to the first day of January of the said calendar year is to three hundred and sixty-five.

(3) A corporation incorporated in Canada may deduct from the tax otherwise payable under this Act an amount equal to the income tax deemed to have been paid to the United Kingdom of Great Britain and Northern Ireland, to any of His Majesty's self-governing dominions other than Canada, or dependencies or to any foreign country on the income out of which dividends (other than dividends that are not liable to taxation by virtue of paragraph (p) of section 4 of this Act) are paid to it by a subsidiary company not resident in Canada (the capital stock of which, except directors' qualifying shares, is wholly owned by it), calculated in accordance with the following rules:

(a) The dividends shall be deemed to have been paid out of income of the subsidiary in the year immediately preceding the year in which the dividends were declared; and

(b) The tax paid on the income from which the dividends are deemed to have been paid in any year shall be deemed to be the amount that bears the same relation to the dividends as the income tax paid by the subsidiary in that year bears to the subsidiary's income in that year,—

unless that amount exceeds the tax under this Act, calculated in accordance with the rules set out in paragraphs (a) and (b) of this subsection, that would have been payable by the subsidiary if the income of the subsidiary had been earned in Canada, in which case, the corporation may deduct an amount equal to that tax.

(4) For the purposes of subsection (3) of this section, the Provincial Treasurer may fix an amount that shall be deemed to be the income of the subsidiary in any year.

(5) A deduction under this section shall be allowed only if the corporation furnishes evidence satisfactory to the Provincial Treasurer showing the amount of tax paid and the particulars of income derived from sources within Great Britain or any of its self-governing dominions or dependencies or any foreign country.

8.—(1) A corporation whose principal business is the production, refining or marketing of petroleum or petroleum products is entitled to deduct from,—

(a) the tax under this Act payable by it in respect of the year of expenditure; and

(b) if the deduction permitted under this subsection exceeds the tax so payable in that year from the tax so payable in subsequent years,—

an amount equal to,—

(c) four and four-ninths per cent in the case of a corporation substantially all of whose income is subject to depletion under this Act, or

(d) six and two-thirds per cent in the case of any other corporation, of the aggregate of drilling and exploration costs, including all general geological and geophysical expenses, incurred by it directly or indirectly on oil wells spudded in during the period from the first day of January, 1943, to the thirty-first day of December, 1946, and abandoned within six months after completion of drilling.

(2) A corporation whose principal business is the production, refining or marketing of petroleum or petroleum products is entitled to deduct from,—

(a) the tax payable by it under this Act in respect of the year of expenditure; and

(b) if the deduction permitted under this subsection exceeds the tax so payable in that year, from the tax so payable in subsequent years,—
an amount equal to,—

(c) three and one-third per cent in the case of a corporation substantially all of whose income is subject to depletion under this Act; or

(d) five per cent in the case of any other corporation, of the aggregate of drilling and exploration costs, including all general geological and geophysical expenses incurred by it directly or indirectly on oil wells;

(e) spudded in during the year 1947; or

(f) the deepening of which commences in 1947,—
and abandoned within six months after the completion of drilling.

(3) A corporation, formed for the purposes of exploring and drilling for oil is entitled to deduct from the tax under this Act payable by it in respect of the year of expenditure three and one-third per cent of the exploration and drilling expenses incurred during the year 1947; Provided, however, that where the tax in respect of the year of expenditure is not sufficient to permit the full amount of the deduction, the balance may be deducted in subsequent years whether the income taxable in the subsequent year from which the balance or part thereof is being deducted arose from the well in respect of which the expenses were incurred or from a well subsequently found by such corporation.

(4) A corporation formed for the purpose of exploring and drilling for natural gas is entitled to deduct from the tax under this Act, payable by it in respect of the year of expenditure three and three-quarters per cent of exploration and drilling expenses incurred by it during the year 1947.

(5) A corporation whose chief business is that of mining or exploring for minerals is entitled to deduct from the tax under this Act payable by it in respect of the year of expenditure, three and one-third per cent of all prospecting, exploration and development expenses incurred by it in searching for minerals during the year 1947; Provided that no such deduction shall be allowed unless the corporation files certified statements of expenditures and satisfies the Provincial Treasurer that it has been actively engaged in prospecting and exploring in Canada for minerals by means of qualified persons and has incurred the said expenditures for such purposes.

(6) A corporation, the principal business of which is production, refining or marketing of petroleum or exploration or drilling for petroleum may, with the consent of the Lieutenant Governor in Council, deduct from the tax under this Act, payable by it in respect of the year of expenditure, eight and one-third per cent of expenditures not including geological or geophysical expenditures, made

in connection with a deep test oil well that was spudded in between the twenty-sixth day of June, 1944, and the thirty-first day of December, 1947, and that proved to be unproductive if, in the opinion of the Lieutenant Governor in Council,—

- (a) drilling the oil well is desirable in order to extend the petroleum resources of Canada; and
- (b) the corporation could not be reasonably expected to drill the oil well unless permitted to deduct a substantial portion of the expenditures in connection therewith from tax.

(7) Where a corporation whose principal business is production, refining or marketing petroleum or exploration or drilling for petroleum is a shareholder or member of another corporation or an association, syndicate or exploration partnership whose principal business is production, refining or marketing of petroleum or exploration or drilling for petroleum and has paid money thereto, either by way of subscription of capital or otherwise, that is expended as described by subsection (6) of this section, the Provincial Treasurer may direct that it shall, to the extent of that payment, be deemed, for the purposes of subsection (6) of this section, to have itself made the expenditure and in any such case no deduction may be made under subsection (6) of this section by such other corporation.

(8) Notwithstanding anything in this section the maximum amount that may be deducted under this section shall not exceed an amount that is the same proportion of the amount deductible but for this subsection as the income attributable to its operations in Alberta under the first schedule to this Act is of the income of the corporation.

PART III.

SPECIAL PROVISIONS.

INCOME FROM CHIEF BUSINESS.

9.—(1) In any case the income of a corporation shall be deemed to be not less than the income derived from its chief position, occupation, trade, business or calling;

(2) Where a corporation has income from more than one source by virtue of filling or exercising more than one position, occupation, trade, business or calling, the Provincial Treasurer shall have full power to determine which one or more, or which combination thereof shall, for the purpose of this Act, constitute the taxpayer's chief position, occupation, trade, business or calling, and the income therefrom shall be taxed accordingly.

(3) The determination of the Provincial Treasurer exercised pursuant hereto shall be final and conclusive.

INCOME FROM ESTATES AND TRUSTS.

10. The income, for any fiscal year, of a corporation that is a beneficiary of any estate or trust of whatsoever nature shall be deemed to include all income accruing to the credit of the corporation whether received by it or not during such fiscal year.

DIVIDENDS.

11.—(1) Dividends or shareholders' bonuses shall be income of the corporation in the year in which they are paid or distributed.

(2) For the purposes of this Act any annual amount received in respect of an income bond or income debenture shall be deemed to be a dividend.

UNDIVIDED PROFITS OF CORPORATION.

12.—(1) In the case of any corporation that has undivided or undistributed profits, if the Provincial Treasurer is of opinion that the accumulation of such profits is in excess of what is reasonably required for the purposes of the business, he may notify the corporation by registered letter of the amount of such accumulation which he considers excessive, and if such amount is not distributed during the fiscal year of the corporation in which notice is given, all corporations holding shares in the said corporation shall be deemed to have received such amount of profits as a dividend on the last day of the said fiscal year.

(2) Where the Provincial Treasurer is of opinion that taxation for any period has been or may be reduced as a result of any transaction entered into after the thirty-first day of December, 1941, he shall have the power to determine in the notification sent by registered letter as provided for in subsection (1) of this section that the amount of such accumulation which he considers excessive shall be deemed to be distributed on the date of the said notification and the corporations holding shares in the said corporation shall be deemed to have received such amount of profits as a dividend on the date of such notification.

INDIRECT DISTRIBUTION OF SURPLUS.

13. Where a corporation owning shares of a second corporation transfers such shares or a portion thereof to a third corporation acting as its agent, trustee or attorney or promoted at its instance or controlled by it, which third corporation subsequently receives a dividend from the second corporation and applies the income thus received, in whole or in part, directly or indirectly,

(a) in payment of the shares purchased by the third corporation from the corporation;

- (b) in the discharge of any liability incurred to such corporation by reason of and in connection with the purchase of such shares; or
- (c) in the discharge of a loan obtained by the third corporation for the purpose of paying for such shares then such corporation shall be taxable in respect of such dividend as if it had received it in the year that the second corporation declared the dividend.

CAPITALIZATION OF UNDISTRIBUTED INCOME.

14. When, as a result of the reorganization of a corporation or the readjustment of its capital stock, the whole or any part of its undistributed income is capitalized, the amount capitalized shall be deemed to be distributed as a dividend during the year in which the reorganization or readjustment takes place and the shareholder corporations of the said corporation shall be deemed to receive such dividend in proportion to their interest in the capital stock of the corporation or in the class of capital stock affected.

CAPITAL STOCK REDUCTIONS OR REDEMPTIONS.

15.—(1) Where a corporation having undistributed income on hand reduces or redeems any class of capital stock or shares thereof, or converts any class of the capital stock or shares thereof into any other class of capital stock, shares or other security thereof, the amount or the value of any consideration or right received by any shareholder corporation by virtue of the reduction, redemption or conversion shall, to the extent to which such shareholder corporation would be entitled to participate in such undistributed income on a total distribution thereof at the time of such reduction, redemption or conversion, be deemed to be a dividend and to be income received by such shareholder corporation.

(2) The provisions of this section shall not apply to any class of stock which, by the instrument authorizing the issue of such class, is not entitled on being reduced or redeemed to participate in the assets of the corporation beyond the amount paid up thereon plus any fixed premium and a defined rate of dividend nor to a reduction of capital effected before the sixteenth day of April, 1926.

REDEMPTION OF SHARES AT PREMIUM.

16. Where a corporation redeems its shares at a premium, the premium shall be deemed to be a dividend and to be income received by the shareholder.

LOANS TO SHAREHOLDERS.

17.—(1) For the purposes of this Act, any loan or advance by a corporation, or appropriation of its funds to a shareholder corporation thereof, other than a loan or advance

incidental to the business of such first mentioned corporation shall be deemed to be a dividend to the extent that such first mentioned corporation has on hand undistributed income and such dividend shall be deemed to be income received by such shareholder corporation in the year in which made.

(2) This section shall not apply to a loan or advance made by a corporation in the ordinary course of its business where the lending of money is part of the ordinary business of the corporation.

DISTRIBUTION ON WINDING-UP OR REORGANIZATION.

18.—(1) On the winding-up, discontinuance or reorganization of the business of any corporation, the distribution in any form of the property of the corporation shall be deemed to be the payment of a dividend to the extent that the corporation has on hand undistributed income.

(2) Where, pursuant to subsection (1) of this section a dividend is deemed to be paid to a corporation incorporated or carrying on business in Canada, such corporation shall, notwithstanding section 4 of this Act, be taxable in respect thereof.

19. The undistributed income of a corporation shall, for the purposes of sections 14, 15, 16 and 17 of this Act, be deemed to be reduced by the amount deemed to be received by the shareholders as a dividend by virtue of the provisions of the said sections 14, 15, 16 and 17.

PERSONAL CORPORATIONS.

20.—(1) The income of a personal corporation, whether the same is actually distributed or not, shall be deemed to be distributed on the last day of each year as a dividend to the shareholders.

(2) Each shareholder's taxable portion of the income of the corporation, deemed to be distributed to him as above provided for, shall be such percentage of the income of the corporation, as the value of all property transferred or loaned by such shareholder or his predecessor in title to the corporation is of the total value of all property of the corporation acquired from the shareholders.

(3) The value of the property transferred by each shareholder or his predecessor in title shall be the fair value as at the date of the transfer of such property to the corporation, and the total value of the property of the corporation acquired from its shareholders shall, for the purpose of determining the percentage referred to in the last preceding subsection, be taken as at the date of acquisition thereof by the corporation; and in ascertaining values under this subsection, regard shall be had to all the facts and circumstances, and the decision of the Provincial Treasurer in that respect shall be final and conclusive.

(4) Where one personal corporation is succeeded by, or transfers its property to, another personal corporation, the shareholders of the first corporation shall be deemed to have transferred to the second or succeeding corporation the property which they transferred to the corporation first mentioned and where any person acquires the control of a personal corporation he shall be deemed to have transferred to such corporation the property transferred thereto by his vendor.

(5) The income shall be deemed to be distributed as a dividend on the last day of the fiscal year.

INTER-CORPORATION TRANSACTIONS.

21. Where any corporation carrying on business in Canada purchases any commodity from a parent, subsidiary or associated corporation or partnership at a price in excess of the fair market price, or where any corporation sells any commodity to any such parent, subsidiary or associated corporation or partnership at a price less than the fair market price, the Provincial Treasurer may, for the purpose of determining the income of any such corporation, determine the fair price at which such purchase or sale shall be taken into its accounts for taxation purposes.

22. Whenever a Canadian corporation advances or has advanced moneys to a corporation not resident in Canada and such advances remain outstanding for a period of one year without any interest or a reasonable rate of interest having been paid or credited to the Canadian corporation, the Provincial Treasurer may for the purposes of this Act, determine the amount of interest on such moneys which shall be deemed to have been received as income by the Canadian corporation.

23. Where any corporation carrying on business in Canada pays to a person not resident in Canada as price, rental, royalty or other payment for the use of any property or reproduction thereof, or for any right, an amount which is not in conformity with similar payments made by other persons in the same kind of business, then such payment may, for the purposes of determining the income of such corporation, be adjusted by the Provincial Treasurer accordingly, unless he is satisfied that the payer and the recipient are not associated, controlled one by the other, or controlled by the same interests.

AVOIDANCE OF TAX.

24.—(1) Notwithstanding any of the provisions of this Act, where the Provincial Treasurer is of the opinion that the main purpose for which any transaction or transactions was or were effected (whether before or after the passing of

this Act) was the avoidance or reduction of liability to tax under this Act, he may, if he thinks fit, direct that such adjustment shall be made as respects liability to tax under this Act as he considers appropriate, so as to counteract the avoidance or reduction of liability to tax under this Act, which would otherwise be effected by such transaction or transactions, and tax shall be assessed and levied accordingly and shall be payable as in this Act provided.

(2) Notwithstanding anything in this Act contained, if upon examination of any transaction or transactions made directly or through the medium of third parties, or by the creation of new or intermediary corporations, it appears to the Provincial Treasurer that any payment or benefit in cash or otherwise, received by any corporation as a result of such transaction or transactions has been received directly or indirectly from a corporation having undistributed income on hand, then the Provincial Treasurer may find that the main purpose of such transaction or transactions was to reduce or avoid taxation, and it shall thereupon be deemed for the purposes of this Act that such corporation, whether it received any such payment or benefit in the form of capital or otherwise, has received income in such year or years and in such amount or amounts as the Provincial Treasurer may determine, and tax shall be assessed and levied upon such corporation and shall be payable as in this Act provided. Any such finding by the Provincial Treasurer may be made notwithstanding that such transaction or transactions may have been entered into either within or without Canada or prior or subsequent to the coming into force of this Act.

(3) Notwithstanding anything in this Act contained if substantially all of the shares of a corporation having undistributed income on hand have been purchased since the coming into force of this Act, by any other corporation, the Provincial Treasurer may find that the main purpose of the sale by the vendor was to reduce or avoid the tax which would have been paid by the shareholders of such corporation having undistributed income on hand on the distribution to them of the said undistributed income, and in such case, notwithstanding paragraph (1) of section 4 of this Act, the dividends paid or deemed to be paid by the corporation having undistributed income on hand and received or deemed to be received by any such other corporation shall upon being so received or deemed to be received be taxed against such corporation and the tax shall be assessed, levied and paid as in this Act provided.

(4) In any appeal from an assessment made pursuant to any finding, direction or determination of the Provincial Treasurer under this section, the Supreme Court shall have jurisdiction to determine whether the main purpose of the transaction or transactions or sale was the avoidance or reduction of liability to tax or whether any finding, direction, determination or adjustment ought to have been made or given, or was appropriate.

25. Where on winding up or otherwise a corporation distributes any assets to its shareholders without sale or at a sale price substantially below the fair market price, which assets if sold at the market price would create income of the corporation within the meaning of this Act, the Provincial Treasurer shall have power to determine the fair market price of such assets and the corporation shall be deemed to have sold such assets at the price so determined and thereby to have received income and the distributed portion received by a corporation that is a shareholder or member shall be deemed to be a dividend.

PART IV.

CHARGING PROVISIONS AND RETURNS.

26.—(1) Every corporation shall pay an income tax equal to five per cent of that portion of its income that is attributable to its operations in Alberta during each of the fiscal years of the corporation.

(2) For the purposes of this Act the portion of the income of a corporation that is attributable to its operations in Alberta shall be determined according to the rules set forth in the first schedule to this Act.

27. Subject to subsection (2) of section 40 of this Act every corporation liable to taxation under this Act shall within six months after the close of its fiscal year without any notice or demand deliver to the Provincial Treasurer a return, in such form as the Provincial Treasurer may prescribe, of the income attributable to its operations in Alberta during the said fiscal year.

28. A corporation that owns or controls all of the capital stock (less directors' qualifying shares) of subsidiary corporations that carry on the same general class of business and have fiscal years substantially coincident with the owning or controlling corporation may, in respect of all such corporations that carry on business in Canada, elect, before the commencement of the earliest fiscal year of any of the constituent corporations in respect of which consolidation is desired and in such manner as may be prescribed by regulations hereunder, to file a return in which its profit or loss is consolidated with that of all of its subsidiary corporations carrying on business in Canada, in which case the rate of tax shall be five and one-third per cent.

Should a corporation revoke any such election it shall not be entitled to make a second election hereunder for a period of five years from the date of such revocation.

29. Every trustee in bankruptcy, assignee, liquidator, receiver, administrator and such other like person administering, managing, winding-up, controlling or otherwise deal-

ing with the property or business of a corporation that has failed to make a return pursuant to this Act shall make the required return.

30. The Provincial Treasurer may, at any time, enlarge the time for making any return.

31. The return shall be made and signed by the president, secretary, treasurer or chief agent of the corporation having a personal knowledge of the affairs of such corporation or by such other person or persons employed by the corporation as the Provincial Treasurer may require.

DEMAND FOR ADDITIONAL INFORMATION.

32.—(1) If the Provincial Treasurer, in order to enable him to make an assessment or for any other purpose, desires any information or additional information or a return from any corporation that has not made a return or a complete return, he may, by registered letter, demand from the corporation such information, additional information or return.

(2) Such corporation shall deliver to the Provincial Treasurer such information, additional information or a return within thirty days from the date of the mailing of such registered letter.

(3) For the purpose of any proceedings taken under this Act the facts necessary to establish compliance on the part of the Provincial Treasurer with the provisions of this section as well as default hereunder shall be sufficiently proved in any court of law by the affidavit of the Provincial Treasurer or any person nominated by him.

(4) Such affidavit shall have attached thereto as an exhibit a copy or duplicate of the said letter.

PRODUCTION OF DOCUMENTS.

33. The Provincial Treasurer may require the production or the production on oath by a corporation or by its agent or officer or by any person or partnership holding or paying or liable to pay any portion of the income of any corporation, of any letters, accounts, invoices, statements and other documents.

34. The Provincial Treasurer may require and demand the production or the production on oath by any person or his agent or officer of any letters, accounts, invoices, statements, financial or otherwise, books or other documents held by such person, agent or officer for the purpose of determining the tax believed to be payable by any corporation and the same shall be produced within thirty days from the date of mailing of such demand.

INFORMATION FROM RECIPIENTS OF INCOME.

35. Every person who, in whatever capacity acting, is in receipt of any money, thing of value or profits or gains arising from any source, of or belonging to any corporation shall, when required to do so by notice from the Provincial Treasurer, prepare and deliver to the Provincial Treasurer any information required, within thirty days from the date of the mailing of such notice.

INQUIRY AS TO INCOME.

36. Any officer authorized thereto in writing by the Provincial Treasurer may make such inquiry as he may deem necessary for ascertaining the income of any corporation, and for the purpose of such inquiry such officer shall have all the powers and authority conferred upon commissioners under *The Public Inquiries Act* for enforcing the attendance of witnesses and of examining them under oath and of compelling them to give evidence and compelling the production of documents and other things.

KEEPING OF BOOKS OR ACCOUNTS.

37. If a corporation fails or refuses to keep adequate books or accounts for income tax purposes, the Provincial Treasurer may require the corporation to keep such records and accounts as the Provincial Treasurer may prescribe.

RETURN OR INFORMATION NOT BINDING ON PROVINCIAL TREASURER.

38. The Provincial Treasurer is not bound by any return or information supplied by or on behalf of a corporation and, notwithstanding such return or information or if no return has been made, the Provincial Treasurer may determine the amount of the tax to be paid by any corporation under this Act.

PART V.

PAYMENT OF TAX.

39. Every corporation liable to pay a tax under this Act shall estimate the amount of the tax payable by it in the return of the income upon which such tax is payable.

40.—(1) Except as provided in subsections (2) and (3) of this section every corporation shall pay all taxes that it is liable to pay upon its income during any fiscal year under

this Act by instalments payable on or before the last day of each month of the twelve-month period ending six months after the close of such fiscal year as follows:

- (a) During each of the first six months in such period an amount equal to one-twelfth of the tax, as estimated by it on its income for the year last preceding such fiscal year or on its estimated income for such fiscal year; and
- (b) During each of the last six months in the said period, an amount equal to one-sixth of the remainder of the tax payable as calculated by it on its income for such fiscal year,—

and if a corporation pays less than the amount of an instalment required to be paid under this section it shall pay interest at the rate of four per cent per annum upon the amount of the deficiency from the date upon which the said instalment was payable until the date of payment of the amount of the deficiency or until the date six months after the end of the fiscal year whichever is earlier, and if, after examination of any corporation's return under section 43 of this Act, it is established that the instalments paid by such corporation under this section in any year amount, in the aggregate, to less than the tax payable by the corporation it shall forthwith after notice of assessment is sent to it under section 44 of this Act, pay the unpaid amount thereof together with interest thereon at four per cent per annum from the day six months after the end of such fiscal year until one month from the day of mailing of the said notice of assessment and thereafter at seven per cent per annum until the day of payment.

(2) Where the fiscal year of a corporation ends during the calendar year 1947 but before this Act received Royal assent, it shall file its return pursuant to section 27 of this Act within three months after this Act received Royal assent or within six months after the close of its fiscal year, whichever is later, and shall pay all taxes that it is liable to pay upon its income during the fiscal year ending in the calendar year 1947, at the time it is required by this Act to file the said return.

(3) Where the fiscal year of a corporation ends less than six months after this Act received Royal assent the payments that, by reason of section 64 of this Act, accrued due before this Act received Royal assent shall be made at the time when the corporation is required by this Act to file its return of income.

OBLIGATION OF TRUSTEES AND FIDUCIARIES.

41. Every person who is required by section 29 of this Act to make a return of income shall to the extent of the property or business that he is administering, managing, winding-up or otherwise controlling or dealing with pay any tax and interest and penalties assessed and levied with respect to such income before making any distribution of such property or business.

42. Every trustee in bankruptcy, assignee, administrator and other like person, before distributing any assets under his control shall obtain a certificate from the Provincial Treasurer certifying that no unpaid assessment of income tax, interest and penalties properly chargeable against the person, property or business, as the case may be, remains outstanding.

EXAMINATION OF RETURNS.

43.—(1) A return received by the Provincial Treasurer shall with all due despatch be checked and examined.

(2) In all cases where such examination discloses that an overpayment has been made by a corporation the Provincial Treasurer shall make a refund of the amount so overpaid by such corporation, except in cases where any instalment or instalments are either due or falling due by such corporation, when the amount of the overpayment shall be applied on such instalment or instalments and notice of such action shall be given such corporation accompanied by the payment of the balance, if any, of the amount overpaid.

PART VI.

ASSESSMENT.

NOTICE OF ASSESSMENT.

44.—(1) After examination of a corporation's return the Provincial Treasurer shall send a notice of assessment to the corporation verifying or altering the amount of the tax as estimated by it in its return.

(2) Except as otherwise provided in this Act, any additional tax found due over the estimated amount shall be paid within one month from the date of the mailing of the notice of assessment.

(3) Notwithstanding any other provision in this Act no interest is payable under this Act upon unpaid taxes in respect of the period beginning twenty months after the day fixed by this Act for filing the return of a corporation's income upon which the taxes are payable and ending one month from the day of the mailing of the notice of assessment.

CONTINUATION OF LIABILITY.

45. Notwithstanding any prior assessment, or if no assessment has been made, a corporation shall continue to be liable for any tax and to be assessed therefor and the Provincial Treasurer may at any time assess any corporation for tax, interest and penalties and may,—

(a) at any time, if the corporation has made any misrepresentation or committed any fraud in making its return or supplying information under this Act; and

(b) within six years from the day of the original assessment in any other case,—

re-assess or make additional assessments upon any corporation for tax, interest and penalties.

REFUND OF OVERPAYMENT.

46. The Provincial Treasurer may, at or prior to the issue of the notice of assessment, refund, without application therefor, any overpayment made by a corporation, or after the issue of the notice of assessment, provided an application in writing is made therefor by the corporation within twelve months from the date of payment of the tax or the date at which the notice of assessment was issued.

PART VII.

APPEALS AND PROCEDURE.

NOTICE OF APPEAL.

47.—(1) A corporation that objects to the amount at which it is assessed, or considers that it is not liable to taxation, may, within one month after the day of mailing the notice of assessment provided for in section 35 of this Act serve a notice of appeal upon the Provincial Treasurer.

(2) Where the Provincial Treasurer is satisfied that delay in serving a notice of appeal has been justified, the Provincial Treasurer may extend the time for service.

(3) Such notice shall be in writing and shall be served by mailing the same by registered post addressed to the Provincial Treasurer at Edmonton.

(4) Every such notice shall set out clearly the reasons for appeal and all facts relative thereto.

(5) Upon receipt of the notice of appeal, the Provincial Treasurer shall duly consider the same and shall affirm or amend the assessment appealed against, and shall notify the appellant of his decision by registered post.

48.—(1) An appeal shall lie to a judge of the Trial Division of the Supreme Court from a decision of the Provincial Treasurer and notice of appeal in duplicate shall be filed with the Clerk of the Court not later than one month from the date of the decision of the Provincial Treasurer.

(2) Upon receipt of the notice of appeal the registrar shall forthwith send one of the copies to the Provincial Treasurer who shall upon receipt of such copy file with the

Clerk of the Court all documents relative to the assessment that were before him at the time of the appeal to him, except books of account, and shall immediately thereafter give notice by registered post to the appellant of the date of such filing.

(3) Within fourteen days after the filing of the documents and after giving seven days' notice to the other party the appellant shall apply to a judge in chambers to appoint a time and place for the hearing of the appeal and the Clerk of the Court shall notify all parties of the time and place so fixed; the time so appointed shall not be later than one month after the date of the application.

(4) When the time and place are appointed for the hearing of the appeal the proceedings shall thereupon become a cause in the Trial Division of the Supreme Court or a judge thereof may direct the parties to file pleadings.

(5) At the hearing of the appeal the judge shall consider and hear the cause upon the material filed with the Clerk of the Court and upon such further material or evidence as the judge may permit, and shall decide the matter of the appeal.

(6) An appeal may be taken to the Appellate Division of the Supreme Court from a decision of a judge in the same manner as an appeal may be taken in any action or cause in the Trial Division of the Supreme Court to which His Majesty is a party and the practice and procedure relating to appeals shall apply to such appeal.

(7) The costs of the appeal shall be in the discretion of the judge and he may order costs in favour of or against the Crown and may fix the amount thereof.

49. An assessment shall not be varied or disallowed because of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act.

PART VIII.

REMEDIES OF CROWN.

ACTION IN THE COURTS.

50. All taxes, interest, penalties and costs assessed or imposed or ordered to be paid under the provisions of this Act, shall be deemed to be a debt due to His Majesty and shall be recoverable as such in the Trial Division of the Supreme Court or in any other court of competent jurisdiction in the name of His Majesty or in such other manner as is in this Act provided.

51.—(1) All taxes, interest, penalties and costs payable under this Act remaining unpaid, whether in whole or in

part, after two months from the date of mailing of the notice of assessment, may be certified by the Provincial Treasurer.

(2) Upon the filing of the certificate in the office of the Clerk of the Supreme Court it shall, from the date of such filing, be of 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, including interest to date of payment as provided for in this Act and entered upon the date of such registration.

(3) All reasonable costs and charges attendant upon the registration of a certificate shall be recoverable in like manner as if they were part of such judgment.

COLLECTION FROM DEBTOR OF CORPORATION.

52.—(1) When the Provincial Treasurer has knowledge or suspects that any person is or is about to become indebted to a corporation the Provincial Treasurer may, by registered letter, demand of such person that the moneys otherwise payable to the corporation be in whole or in part paid over to the Provincial Treasurer on account of the corporation's liability under the provisions of this Act.

(2) The receipt of the Provincial Treasurer therefor shall constitute a good and sufficient discharge of the liability of such person to the corporation to the extent of the amount stated in the receipt.

(3) A person discharging any liability or making any payment to a corporation after receipt of the registered letter mentioned in subsection (1) of this section shall be personally liable to His Majesty to the extent of the liability discharged as between such person and the corporation or to the extent of the liability of the corporation for taxes, interest and penalties, whichever is the lesser amount.

DISTRESS.

53.—(1) If any corporation not having given notice of appeal, neglects or refuses to pay any tax, interest or penalty or instalment of tax due under this Act, the Provincial Treasurer may, on giving ten days' notice by registered mail addressed to such corporation at its last known place of residence, issue a certificate declaring it to be in default and may authorize any person whom the Provincial Treasurer deems proper, upon receipt of such certificate, to distrain the goods and chattels of the corporation so in default.

(2) The distress levied in accordance with this section shall be kept for ten days at the cost and charges of the corporation neglecting or refusing to pay, and if such corporation does not pay the sum due, together with the costs and charges, within the said ten days, the goods and chattels distrained shall be sold by public auction.

(3) Except in the case of perishable goods, notice of the sale setting forth the time and place thereof, together with a general description of the goods to be sold, shall be published at least once in one or more of the local newspapers of general local circulation.

(4) Any surplus resulting from the distress, after deduction of the amount owing by the corporation and all costs and charges, shall be restored to the owner of the goods distrained.

(5) Such goods and chattels of any corporation in default as would be exempt from seizure under a writ of execution shall be exempt from distress under this section.

PART IX.

ADMINISTRATION.

54. The Lieutenant Governor in Council may from time to time appoint such officers and employees as are required for the proper administration of this Act, and the salaries of all officers and employees shall be paid out of the general revenue fund.

55. The Provincial Treasurer shall have the administration of this Act and the control and management of the collection of the taxes imposed hereby, and of all matters incident thereto, and of the officers and persons employed in that service.

56. For the purpose of carrying out the provisions of this Act according to their true intent and of supplying any deficiency therein, the Lieutenant Governor in Council may make regulations not inconsistent with the spirit of the Act, which shall have the same force and effect as if incorporated herein.

57. No return made by any corporation under this Act shall be open for inspection by any person except the officers appointed under this Act whose duty it is to inspect the same and any person authorized by the Lieutenant Governor in Council to inspect it.

PART X.

OFFENCES AND PENALTIES.

58.—(1) Every corporation that fails to deliver a return pursuant to section 27 of this Act within the time limited therefor in sections 27 or 40 of this Act, as the case may be, is liable to a penalty of,—

- (a) five dollars, where the amount of tax that was unpaid when the return was required to be made is one hundred dollars or less;
- (b) an amount equal to five per cent of the tax that was unpaid when the return was required to be made, where the amount of the tax unpaid at that time is more than one hundred dollars and less than ten thousand dollars; and
- (c) five hundred dollars, where the amount of the tax that was unpaid when the return was required to be made is ten thousand dollars or more.

(2) Every person failing to deliver a return pursuant to the provisions of section 29 of this Act within the time limited therefor is liable to a penalty of ten dollars for each day of default or fifty dollars, whichever is less.

59. Every corporation failing to complete the information required on the forms prescribed by the Provincial Treasurer for reporting income as required by section 27 of this Act or any supplementary form that the Provincial Treasurer may prescribe is liable to a penalty of one per cent of the tax payable by such corporation; provided, however, that such penalty shall not in any case, whether the corporation is taxable or not, be less than twenty-five dollars, and shall not in any case exceed one hundred dollars.

60.—(1) For every default in complying with the provisions of sections 32 to 37, inclusive, of this Act, the persons in default shall each be liable on summary conviction to a penalty of not less than twenty-five dollars for each day during which the default continues.

(2) Every person who violates section 40 or section 41 of this Act is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars.

61.—(1) Every person who makes, or assents or acquiesces in the making of, false or deceptive statements in a return to be filed pursuant to this Act or a regulation made thereunder or in a statement made pursuant to a demand by the Provincial Treasurer for information, is guilty of an offence and liable on summary conviction to,—

- (a) a penalty of one hundred dollars, or, if the tax that should be shown by the return to be payable is more than fifty dollars, to a penalty of not less than one hundred dollars and not more than double the amount of the tax that should have been shown to be payable;
- (b) to not more than two years' imprisonment; or
- (c) to both the fine and the imprisonment described in paragraphs (a) and (b) of this subsection.

(2) Every person who, to evade payment of a tax imposed by this Act, destroys, alters, mutilates, secretes, or

otherwise disposes of the records or books of account of a corporation or makes, or assents or acquiesces in the making of, false or deceptive entries or omits, or assents or acquiesces in the omission, to enter a material particular in records or books of account of a corporation or in a return required to be made by or pursuant to this Act, is guilty of an offence and liable on summary conviction to a penalty of not less than one hundred dollars and not more than one thousand dollars, and to a further penalty of double the amount of the tax sought to be evaded and in default of payment of the said penalties to imprisonment for a term of not less than three months and not more than two years.

(3) Every person who wilfully attempts, in any manner, to avoid compliance with this Act or payment of a tax imposed by this Act is guilty of an offence and liable on summary conviction to imprisonment for a term of not more than two years.

(4) Any information or complaint in respect of an offence under this section may be laid or made within five years from the time when the matter of the information or complaint arose.

62.—(1) No person having the custody or control of any return, form, or other document or papers filed under the provisions of this Act, 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.

(2) A person who violates subsection (1) of this section is liable on summary conviction to a fine not exceeding two hundred dollars.

63.—(1) Any information or complaint under this Act may be laid or made by any person authorized thereunto by the Provincial Treasurer.

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

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

(4) Any complaint or information in respect of a contravention of this Act or of a regulation made pursuant thereto may be heard, tried or determined by any police or stipendiary magistrate or any justice or justices of the peace if the accused is found or apprehended or is in custody within his

or their territorial jurisdiction although the matter of the information or complaint did not arise within his or their territorial jurisdiction.

64. This Act shall come into force upon a date to be fixed by proclamation of the Lieutenant Governor in Council, and upon so coming into force, shall be deemed to have been in force at all times on and after the first day of January, 1947.

65.—(1) This Act shall expire on the first day of January, 1952.

(2) A corporation may deduct from the tax otherwise payable by it under this Act in respect of its fiscal year commencing in the calendar year 1951 an amount that is in the same ratio to the said tax otherwise payable as the number of days in that fiscal year following the last day of December of the said calendar year is to three hundred and sixty-five.

FIRST SCHEDULE.

INCOME OF CORPORATIONS ATTRIBUTABLE TO OPERATIONS IN PROVINCE OF ALBERTA.

1. If a corporation has no permanent establishment outside Alberta, the whole of the income of the corporation shall be attributed to its operations in Alberta.

2. If a corporation has no permanent establishment in Alberta no part of its income shall be attributed to its operations in Alberta.

3.—(1) If a corporation has a permanent establishment in Alberta and a permanent establishment outside Alberta there shall be attributed to its operations in Alberta only that part of its income that could properly be considered to have arisen from its activities in Alberta if the permanent establishment in and the permanent establishment outside Alberta were operated by different independent persons.

(2) The income to be attributed to the operations of a corporation in Alberta under subsection (1) of this section shall be determined on the basis of the separate accounts pertaining to its permanent establishment in Alberta.

(3) The Provincial Treasurer shall, when necessary for the purpose of subsection (2) of this section, rectify the accounts pertaining to a permanent establishment especially to correct errors or omissions or to establish the prices or remunerations entered in the books at the amounts which might fairly and reasonably have been paid if the permanent establishment outside Alberta were operated by some person other than and independent of the corporation.

(4) Where the business of a corporation consists of different operations, activities or processes (*e.g.* manufacturing, processing or selling) some of which are carried on in Alberta and some of which are carried on outside Alberta, its income shall be allocated as between the different operations, activities or processes according to sound accounting principles.

(5) In any case where,—

- (a) separate accounts showing the operations of the permanent establishment are not maintained;
- (b) the rectification provided for in subsection (3) of this section cannot, in the opinion of the Provincial Treasurer, be effected; or
- (c) the Provincial Treasurer and the taxpayer so agree,—

there shall be attributed to the permanent establishment in Alberta a portion of the income of the corporation, the ratio of which to the income of the corporation is equal to the average of the following ratios, namely; the ratio of the gross revenue of the permanent establishment in Alberta to the total gross revenue of the corporation and the ratio of the salaries and wages paid by the corporation to the personnel of the permanent establishment in Alberta to the total salaries and wages paid by the corporation.

(6) In determining the income attributable to the operations in Alberta of a corporation pursuant to subsections (1), (2), (3) and (4) of this section, a properly apportioned part of the general expenses of the head office of the corporation may be attributed to its operations in Alberta, if such expenses have not already been taken into account in any rectification made pursuant to subsection (3) of this section.

SPECIAL CASES.

4. Notwithstanding anything contained in section 3,—

- (a) the income to be attributed to the operations in Alberta of an insurance corporation shall be an amount that is in the same ratio to the income of the corporation as the aggregate of the net premiums received by the corporation in respect of insurance on property situate in Alberta and the net premiums received by the corporation from persons resident in Alberta in respect of insurance other than on property is to the total net premiums received by the corporation; and for the purposes of this paragraph the expression "net premiums received by the corporation" means in the case of a company transacting life insurance, the gross premiums received by the company other than the consideration received for annuities, less premiums returned and less the cash value of the dividends paid or credited to policyholders and, in the case of any other company, the gross premiums received or receivable by the company or paid or payable

by the insured less dividends to policyholders and the rebates and return premiums paid on the cancellation of policies;

(b) the income to be attributed to the operations in Alberta of a bank shall be an amount the ratio of which to the income of the bank equals one-third of the aggregate of the following,—

(i) the salaries and wages paid during the taxation year to the personnel of the permanent establishment in Alberta divided by the total salaries and wages paid during the taxation year by the bank; and

(ii) the combined loans and deposits of the permanent establishment in Alberta, multiplied by two and divided by the combined loans and deposits of the bank;

and for the purposes of this paragraph the loans and deposits for a taxation year shall be the average of the loans or deposits, as the case may be (excluding bonds, stocks, debentures, items in transit and deposits in favour of Canada) at the last day of each month in the taxation year;

(c) the income to be attributed to the operations in Alberta of a trust or loan or trust and loan corporation shall be an amount that is in the same ratio to the income of the corporation as the gross revenue of the permanent establishment in Alberta is to the gross revenue of the corporation; and for the purposes of this paragraph the expression "gross revenue of the permanent establishment in Alberta" means the aggregate of,—

(i) the gross revenue of the corporation in respect of loans secured by property situate in Alberta and the gross revenue of the corporation from residents of Alberta in respect of all other loans;

(ii) the gross revenue, not included as gross revenue of the corporation under clause (i) of this paragraph, of the permanent establishment in respect of loans, from residents of those provinces in which the corporation has no permanent establishment; and

(iii) the gross revenue of the permanent establishment other than revenue in respect of loans;

(d) the income to be attributed to the operations in Alberta of a railway corporation shall be an amount the ratio of which to the income of the corporation is equal to the average of the following ratios, namely; the ratio of the equated track miles within Alberta to the equated track miles in all provinces and the ratio of the gross ton miles during the taxa-

tion year within Alberta to the gross ton miles during the taxation year within all provinces and for the purposes of this paragraph,—

- (i) the expression "equated track miles" means the aggregate of the miles of first main track, eighty per cent of the miles of other main track and fifty per cent of the miles of yard tracks and sidings; in computing equated track miles and gross ton miles there shall be included all such mileages of the railways in all provinces as are operated by the corporation and by all its subsidiaries;
 - (ii) the profit or loss of the corporation shall be consolidated with that of all its subsidiaries; and
 - (iii) the income of the corporation does not include income attributable to the operation of ocean or coastal steamship lines or air lines;
- (e) the income to be attributed to the operations in Alberta of an airline corporation shall be an amount the ratio of which to the income of the corporation equals one-quarter of the aggregate of the following:
- (i) The amount of the investment of the corporation in fixed assets in Alberta divided by the amount of the investment of the corporation in fixed assets in all provinces; and
 - (ii) The number of plane miles, weighted according to the various types of aircraft according to pay-load capacity in Alberta, multiplied by three and divided by the number of plane miles in all provinces, similarly weighted.

GENERAL.

5.—(1) Where part of the business of a corporation consists of operations normally conducted by any of the corporations mentioned in section 4, the corporation and the Provincial Treasurer may agree that the paragraphs of section 4 relating to the said operations shall apply to the income attributable to the said part of the business of the corporation, as agreed by the corporation and the Provincial Treasurer, and that section 3 shall apply to the remaining income of the corporation.

(2) Where a railway corporation operates air lines the income to be attributed to the operation of the air line in Alberta shall be determined according to paragraph (e) of section 4.

6. Where a corporation that has a permanent establishment in Alberta is a subsidiary of another corporation or is the parent of a subsidiary corporation or where it is controlled directly or indirectly by the same persons as control

another corporation or where conditions are made or imposed between the two corporations in their financial or commercial relationships that in the opinion of the Provincial Treasurer differ from those that would be made or imposed between independent corporations, the Provincial Treasurer may determine the income of the corporation to be such income as it would have been if it were a corporation independent of the said parent, subsidiary or other corporation and controlled by different persons.

7.—(1) In these sections unless the context otherwise requires “permanent establishment” includes head offices, branches, mines and oil wells, farms, factories, workshops, warehouses, offices, agencies, installations, professional premises, and other fixed places of business.

(2) Where a corporation carries on business through an employee or agent who has general authority to contract for his employer or principal or has a stock of merchandise from which he regularly fills orders which he receives, the said agent or employee shall be deemed to operate a permanent establishment of the corporation.

(3) The fact that a corporation has business dealings through a commission agent, broker or other independent agent or maintains an office solely for the purchase of merchandise shall not of itself be held to mean that the corporation is operating a permanent establishment.

(4) The fact that a corporation has a subsidiary company in Alberta or a subsidiary company engaged in trade or business in Alberta shall not of itself be held to mean that the corporation is operating a permanent establishment in Alberta.

No. 41

FOURTH SESSION
TENTH LEGISLATURE

11 GEORGE VI

1947

BILL

An Act Respecting the Taxation of
Corporations.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MANNING.

EDMONTON:
A. Shnitka, King's Printer
1947