

Bill No. 38 of 1948.

A BILL TO AMEND THE ALBERTA CORPORATION
INCOME TAX ACT

NOTE.

This Bill amends *The Alberta Corporation Income Tax Act*.

The Act was passed in 1947 at the request of the Dominion Government pursuant to arrangements negotiated between the Governments of Canada and Alberta with respect to the suspension of the levying of certain taxes by the Province.

All provinces which completed tax agreements with the Dominion Government passed similar Acts in 1947.

All these provinces are now requested to enact similar amending Acts.

The amendments are practically all of a minor nature, being mainly correction of errors in spelling or punctuation, or amendments required in connection with the administration of the Act.

This Bill is made retroactive to the first day of January, 1947.

W. S. GRAY,
Legislative Counsel.

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

BILL

No. 38 of 1948.

An Act to amend The Alberta Corporation Income Tax Act.

(Assented to , 1948.)

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

1. *The Alberta Corporation Income Tax Act*, being chapter 3 of the Statutes of Alberta, 1947, is hereby amended as to section 3 by adding immediately at the end thereof the following new subsections:

“(3) Where a corporation has, on or after the first day of January, 1947, received a security or other right wholly or partially as or in lieu of payment of or otherwise in satisfaction of an interest, declared dividend or other debt the amount of which would be included in computing its income if paid, the value of the security or other right or the applicable portion thereof shall, notwithstanding the form or legal effect of the transaction, be included in computing its income for the taxation year in which it was received and a payment in redemption of the security or in satisfaction of the right shall not be deemed to be income of the recipient in the year of payment.

“(4) Certificates evidencing indebtedness or stock or shares issued to a corporation in respect of an allocation in proportion to patronage, as defined in subsection (5) of section 5 of this Act, shall be deemed to be income received by the corporation to which they are issued in the year in which they are issued of an amount equal to the amount of the allocation in proportion to patronage in respect of which they are issued and payment thereunder or redemption thereof shall not be deemed to be income in the year of payment or redemption.”.

2. The said Act is further amended as to section 4,—

(a) by striking out paragraph (l) thereof and by substituting therefor the following:

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

- (b) by striking out the words "this Act", where the same occur in paragraph (*m*) thereof, and by substituting therefor the words "the Income War Tax Act (Canada)";
- (c) by adding the word "and" immediately at the end of clause (v) of paragraph (*n*) thereof;
- (d) by striking out clause (vi) of paragraph (*n*) thereof;
- (e) by renumbering clause (vii) of paragraph (*n*) thereof as clause (vi);
- (f) by striking out the words "base metals", where the same occur in line six of paragraph (*q*) thereof, and by substituting therefor the words "base metal".

3. The said Act is further amended as to section 5,—

- (a) by striking out the words "this Act", where the same occur in clause (i) of paragraph (*g*) of subsection (1) thereof, and by substituting therefor the words "the Income War Tax Act (Canada)";
- (b) by striking out paragraph (*i*) of subsection (1) thereof and by substituting therefor the following:
 - "(*i*) Such amount as the Lieutenant Governor in Council may by regulation allow for amounts paid in respect of taxes imposed on the income or any part thereof by the legislature of any province by way of tax on income derived from mining operations or income derived from 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 in respect of the income for 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.";
- (c) by adding immediately after the words "during the taxation year", where the same occur in line seven of subsection (2) thereof, the words "or within twelve months thereafter";
- (d) by striking out the words "of his section", where the same occur in subsection (4) thereof, and by substituting therefor the words "of this section";
- (e) by striking out the quotation mark, where the same occurs after the words "of any taxation year" in paragraph (*d*) of subsection (5) thereof, and by inserting the quotation mark after the words "done with members of the corporation" where the same occur in line two thereof;
- (f) by striking out paragraphs (*e*) and (*f*) of subsection (5) thereof and by substituting therefor the following:

- “(e) ‘payment’ includes the issue of certificates evidencing indebtedness or stock or shares of the taxpayer or of a corporation that owns all the share capital (except directors’ qualifying shares) of the taxpayer, only if the taxpayer or that 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 taxpayer or that corporation, previously issued; and
- “(f) ‘member’ of a taxpayer means a person who is entitled as a member or shareholder to full voting rights in the conduct of the affairs of the taxpayer or of a corporation that owns all the share capital (except directors’ qualifying shares) of the taxpayer.”.

4. The said Act is further amended as to section 6,—

- (a) by striking out the words “in respect of any such period” where the same occur in paragraph (g) of subsection (1) thereof;
- (b) by striking out the words “this Act”, where the same occur in paragraph (g) of subsection (1) thereof, and by substituting therefor the words “the Income War Tax Act (Canada)”;
- (c) by adding immediately after the proviso to paragraph (i) of subsection (1) thereof the following new proviso:
 “Provided further that the provisions of this paragraph shall not apply in determining the income of ‘personal corporations’ taxable against their shareholders.”;
- (d) by striking out the words “the depreciation cost”, where the same occur in the second proviso to paragraph (k) of subsection (1) thereof, and by substituting therefor the words “the depreciated cost”;
- (e) by striking out paragraph (l) of subsection (1) thereof and by substituting therefor the following:
 “(l) any corporation tax, as defined by regulation made by the Lieutenant Governor in Council, paid to the government of a province or to a municipality.”
- (f) by striking out subsection (4) thereof;
- (g) by renumbering subsection (5) thereof as subsection (4).

5. The said Act is further amended as to section 7,—

- (a) by striking out subsection (1) thereof and by substituting therefor the following:

“7.—(1) A corporation resident in Canada may deduct from the tax otherwise payable under this Act one-sixth of 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.”;

- (b) by striking out the first twelve lines of subsection (3) thereof and by substituting therefor the following:

“(3) A corporation incorporated in Canada may deduct from the tax otherwise payable under this Act an amount equal to one-sixth of 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 (more than fifty per cent of the capital stock of which having full voting rights under all circumstances is owned by it), calculated in accordance with the following rules:”;

- (c) by striking out subsection (4) thereof and by substituting therefor the following new subsections:

“(4) Where a corporation resident in Canada owns all the shares (less directors’ qualifying shares) of a non-resident holding company, the corporation resident in Canada may deduct from its taxes under this Act, for any taxation year, one-sixth of an amount equal to that proportion of the dividends received by the corporation resident in Canada from the non-resident holding company in that taxation year that is the same as the proportion that the aggregate of the income tax paid by the non-resident subsidiary companies of the holding company to the government of a country other than Canada in respect of income of the year preceding the year in which the dividends were received by the corporation resident in Canada is of the total income of the said subsidiaries in that year but such deduction shall not at any time exceed the amount of the tax that would otherwise be payable under this Act in respect of such dividends.

“(5) In subsection (4) of this section ‘non-resident holding company’ means a non-resident

company that in the taxation year in which the dividends are received by the corporation resident in Canada derived more than seventy-five per cent of its income from dividends received from subsidiary non-resident companies the majority of whose shares, having full voting rights under all circumstances, were owned by it.

“(6) For the purposes of subsections (3) and (4) of this section, the Provincial Treasurer may fix an amount that shall be deemed to be the income in any taxation year of a subsidiary company or a holding company therein mentioned and may determine the amount of the income tax paid by the non-resident subsidiary companies therein mentioned.

“(7) A company entitled to make deductions from its taxes as provided in subsection (4) of this section shall not be entitled to make a deduction from its taxes under subsection (3) of this section.”;

- (d) by renumbering subsection (5) thereof as subsection (8).

6. The said Act is further amended as to section 8,—

- (a) by striking out subsection (1) thereof and by substituting therefor the following:

“**8.**—(1) A corporation whose principal business is the production, refining or marketing of petroleum or petroleum products is entitled to deduct from the tax under this Act payable by it in respect of any taxation year an amount equal to,—

“(a) 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

“(b) 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:

“Provided however that a corporation may not deduct from the taxes payable in respect of any taxation year more than one-sixth of the amount deducted from the taxes payable in respect of that year under the Income War Tax Act (Canada) for drilling and exploration costs incurred during the said period.”;

- (b) by adding immediately after subsection (2) thereof the following new subsection:

“(3) A corporation formed for the purpose of exploring and drilling for oil is entitled to deduct from the tax under this Act, payable by it in respect of any taxation year, four and four-ninths per cent of exploration and drilling expenses incurred during the period from the first day of January, 1943, to the thirty-first day of December, 1946:

“Provided however that a corporation may not deduct from the taxes payable in respect of any taxation year more than one-sixth of the amount deducted from the taxes payable in respect of that year under the Income War Tax Act (Canada) for exploration and drilling expenses incurred during the said period.”;

- (c) by renumbering subsections (3), (4), (5), (6), (7) and (8) thereof as subsections (4), (5), (6), (7), (8) and (9) respectively;
- (d) by striking out the words “subsection (6) of this section”, wherever the same occur in subsection (7), now renumbered as subsection (8) thereof, and by substituting therefor the words “subsection (7) of this section”.

7. The said Act is further amended as to section 13 by striking out the period immediately after the word “indirectly”, where the same occurs in the seventh line thereof, and by substituting therefor a comma and dash.

8. The said Act is further amended as to section 16 by striking out the same and by substituting therefor the following:

“**16.** Where a corporation redeems any of its shares at a premium, the premium received prior to the thirty-first day of May, 1947, shall be deemed to be a dividend and to be income received by the shareholder and the premium received on or after the said thirty-first day of May shall, for the purposes of this Act, be included in computing the income of the recipient of the fiscal year in which the premium is received.”

9. The said Act is further amended as to section 28 by adding the following proviso immediately at the end of the first paragraph thereof:

“Provided that where the earliest fiscal year of any of the constituent companies commences prior to the first day of January, 1948, the election may be made at any time before the said date.”.

10. The said Act is further amended as to section 40 by adding immediately at the end of subsection (3) thereof the following new subsections:

“(4) Where a corporation fails to pay all or any part of the amounts required under subsections (2) or (3) within the times prescribed, it shall pay interest on all unpaid amounts at the rate of four per cent per annum from the due date of payment until one month from the day of mailing of the notice of assessment and thereafter at seven per cent per annum until the day of payment.

“(5) Notwithstanding anything contained in this section, where a corporation that has held forth the prospect that it will make allocations in proportion to patronage to its customers of a taxation year, as described in subsections (3), (4), (5) and (6) of section 5 of this Act, and where the amount of its income of that year is estimated by it to be three thousand dollars or less, the corporation is not required to pay instalments in respect of its tax on its said income under subsection (1) of this section but shall pay the amount of its said tax as estimated by it at the time when it is required under this Act to make a return of its income for such taxation year and if, after examination of the corporation's return under this Act,—

“(a) it is established that the amount of the income of the corporation is three thousand dollars or less but that the amount so paid is less than the tax payable by it, the corporation shall forthwith after notice of assessment is sent to it under this Act pay the unpaid amount thereof together with interest thereon at four per cent per annum from the day on or before which it is required to make payment of its tax as estimated by it until one month after the date of mailing of the notice of assessment and thereafter at seven per cent per annum until the date of payment; or

“(b) it is established that the amount of income of the corporation is more than three thousand dollars, the corporation shall, forthwith after notice of assessment is sent to it under this Act, pay interest on the amount of its tax at four per cent per annum in respect of the period from the end of its fiscal year to the day on or before which it is required to make payment of its tax as estimated by it and if the amount of the said payment is less than the tax payable by it shall forthwith after receiving the notice of assessment pay the unpaid amount thereof together with interest thereon at four per cent per annum from the time when it made payment of its tax as estimated by it until one month after the date of mailing of the notice of assessment and thereafter at seven per cent per annum until the date of payment.

“(6) No interest is payable prior to the first day of January, 1948.”.

11. The said Act is further amended as to section 47,—

- (a) by striking out the word and figures “section 35”, where the same occur in subsection (1) thereof, and by substituting therefor the words and figures “subsection (1) of section 44”;
- (b) by adding immediately after the words “such notice”, where the same occur in subsection (4) thereof, the words “shall be in Form A in the Second Schedule and”.

12. The said Act is further amended as to section 48,—

- (a) by adding immediately after the words “in duplicate”, where the same occur in subsection (1) thereof, the words “in Form B in the Second Schedule”;
- (b) by striking out the words “proceedings shall thereupon become a cause in the Trial Division of the Supreme Court”, where the same occur in subsection (4) thereof, and by substituting therefor the words “proceedings shall thereupon become a cause in the Trial Division of the Supreme Court, and the Court”;
- (c) by striking out the word “apeal”, where the same occurs in subsection (7) thereof, and by substituting therefor the word “appeal”.

13. The said Act is further amended as to section 50 by striking out the word “panalties”, where the same occurs therein, and by substituting therefor the word “penalties”.

14. The said Act is further amended as to section 56 by striking out the same and by substituting therefor the following:

“**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, and in particular, without limiting the generality of the foregoing, may make regulations,—

- “(a) prescribing the evidence required to establish facts relevant to assessments under this Act; and
- “(b) requiring any class of persons to make information returns respecting any class of information required in connection with assessments under this Act, and any return required by regulation under this section shall be deemed to be a return required by section 35 of this Act.”.

15. The said Act is further amended as to section 60 by striking out the word “panalty”, where the same occurs in subsection (1) thereof, and by substituting therefor the word “penalty”.

16. The said Act is further amended as to the First Schedule thereto by striking out the word "establishment", where the same occurs in subsection (3) of Rule 7 thereof, and by substituting therefor the word "establishment".

17. The said Act is further amended by adding immediately after the First Schedule thereof, the following new Schedule:

"SECOND SCHEDULE

"FORM A.

"Notice of Appeal to Provincial Treasurer.

"In re The Alberta Corporation Income Tax Act,
and

.....
(Name of corporation.)
of the.....of.....in the
Province of Alberta,

Appellant.

"Notice of appeal is hereby given from the assessment bearing date the.....day of.....A.D. 19..... wherein a tax in the sum of.....dollars was levied in respect of income for the taxation year A.D. 19.....

"(1) The following is a statement of the facts relevant to the said assessment:

"(2) The following is a statement of the Appellant's reasons for appeal:

"Dated this.....day of.....A.D. 19.....

.....
(Signature)

"FORM B.

"Notice of Appeal.

"In the Supreme Court of Alberta
(Trial Division)

"Judicial District of.....

"In re The Alberta Corporation Income Tax Act,
and

.....
(Name of corporation.)
of the.....of.....in the
Province of Alberta,

Appellant.

"Notice of appeal is hereby given from the decision of the Provincial Treasurer confirming an assessment bearing date the.....day of.....A.D. 19..... wherein a tax in the sum of.....dollars was levied in respect of the Appellant's income for the taxation year A.D. 19.....

“(1) The following is a statement of the facts relevant to the said assessment:

“(2) The following is a statement of the Appellant’s reasons for appeal:

“Dated this.....day of.....A.D. 19.....

.....
(Signature)

“To the Clerk of
the Supreme Court of Alberta,
Judicial District of.....”

18.—This Act shall come into force on the day upon which it is assented to, and upon so coming into force shall be deemed to have been in force at all times since the first day of January, 1947.

FIFTH SESSION
TENTH LEGISLATURE
12 GEORGE VI
1948

BILL
An Act to amend The Alberta
Corporation Income Tax Act.

Received and read the

First time.....

Second time

Third time.....

HON. MR. MANNING.

EDMONTON:
A. Shnitka, King's Printer
1948