

Bill No. 89 of 1949.

A BILL RESPECTING CORPORATION INCOME  
TAXES.

---

NOTE.

This Bill enacts a new Act to be known as "*The Alberta Corporation Income Tax Act, 1949*". *The Alberta Corporation Income Tax Act*, being chapter 3 of the Statutes of Alberta, 1947, is not applicable to taxation years after the 1948 taxation year, and this new Act is applicable to 1949 and subsequent taxation years.

In 1947 the Government of Canada and the Government of Alberta entered into an agreement providing for the suspension by the Province of the levying and collection of income tax on individuals, succession duties and certain corporation taxes. The 1947 Act was introduced and passed at the request of the Dominion Government and similar Acts were passed by the Legislatures of all Provinces which completed tax agreements with the Dominion. Now, at the request of the Dominion, this Act is being introduced, applicable to 1949 and subsequent taxation years. Similar Bills have been or will be introduced in the Legislatures of all the provinces which have completed tax agreements.

This Bill is divided into five parts. Part I deals with income tax payable by corporations. Part II deals with the administration and enforcement of the Act. Part III deals with tax evasion. Part IV contains the interpretation section and Part V contains the transitional provisions necessary in connection with the transition from the 1947 Act to this Act.

Part I is divided into seven divisions, namely, Divisions A to G inclusive.

Division A deals with liability for the tax.

Division B deals with computation of income. In this Division sections 3 and 4 deal with general rules. Sections 5 to 8 set out the amounts included in computing income. Section 9 deals with the amounts not included in computing income. Sections 10 and 11 deal with deductions allowed in computing income and section 12 deals with deductions not allowed in computing income. Sections 13 to 20 contain miscellaneous rules for computing income.

Division C of Part I deals with the computation of taxable income. In this Division sections 21 to 23 deal with deductions and section 24 deals with the income of life insurance companies.

Division D of Part I deals with computation of the tax. The tax payable by a corporation is normally five per cent of its taxable income for the year attributable to its operations in Alberta. Sections 26 to 29 contain exceptions or variations used in computing the tax.

Division E of Part I deals with returns, assessments, payment of tax and appeals. In this Division section 30 sets out the returns required. Section 31 deals with the estimate of the tax which is required from the taxpayer. Assessment is dealt with in sections 32 to 36. Section 37 deals with the payment of interest on tax which is overdue. Section 38 is the penalty section and section 39 provides for refunds of overpayments. Appeals are dealt with in sections 40 and 41 and section 42 is a general provision.

Division F of Part I deals with exceptions.

Division G of Part I deals with exceptional cases and special rules. Personal corporations are dealt with in section 44, investment companies in sections 45 and 46, foreign business corporations in section 47, scientific research in section 48, co-operatives in section 49, refund of premiums and patronage dividends in sections 50 and 51, special contributions by employers to superannuation funds in section 52, mining companies in section 53, and consolidated returns in section 54.

Part II of the Act deals with its administration and enforcement. In this Part the general administrative provisions are contained in sections 55 and 56. Provisions relating to the collection of tax are contained in sections 57 to 61 and further general provisions are contained in sections 62 to 65. The sections dealing with offences, procedure, and evidence are sections 66 to 71.

Part III of the Act deals with tax evasion.

Part IV of the Act contains the interpretation provisions.

Part V of the Act contains the transitional provisions which are found in sections 74 to 78.

This new Bill is based on the *Dominion Income Tax Act* and the purpose of its enactment is to ensure that the provisions of the Dominion Act and the Alberta Act will be uniform.

KENNETH A. MCKENZIE,  
*Acting Legislative Counsel.*

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

# BILL

No. 89 of 1949.

An Act Respecting Corporation Income Taxes.

(Assented to \_\_\_\_\_, 1949.)

**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, 1949*".

---

## PART I.

### INCOME TAX.

#### DIVISION A—LIABILITY FOR TAX.

**2.**—(1) Every corporation shall pay an income tax as hereinafter required upon that portion of its taxable income for a taxation year that is attributable to its operations in Alberta.

(2) For the purposes of this Act the portion of the taxable 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.

(3) The taxable income of a corporation for a taxation year is its income for the year minus the deductions permitted by Division C.

#### DIVISION B—COMPUTATION OF INCOME.

##### GENERAL RULES.

**3.** The income of a corporation for a taxation year for the purposes of this Act is its income for the year from all sources inside or outside Canada and, without restricting the generality of the foregoing, includes income for the year from all businesses and property.

**4.** Subject to the other provisions of this Act, income for a taxation year from a business or property is the profit therefrom for the year.

##### AMOUNTS INCLUDED IN COMPUTING INCOME.

**5.** Without restricting the generality of section 3, there shall be included in computing the income of a corporation for a taxation year,—

- (a) amounts received in the year as, on account of or in lieu of payment of, or in satisfaction of dividends or annuity payments;
- (b) amounts received in the year or receivable in the year (depending upon the method regularly followed by the corporation in computing its profit) as interest or on account of or in lieu of payment of, or in satisfaction of interest;
- (c) the corporation's income from a partnership or syndicate for the year whether or not it has withdrawn it during the year;
- (d) the amount deducted as a reserve for doubtful debts in computing the corporation's income for the immediately preceding year,
- (e) amounts received in the year on account of debts in respect of which a deduction for bad debts had been made in computing the corporation's income for a previous year whether or not the corporation was carrying on the business in the taxation year;
- (f) amounts received by the corporation in the year as premiums paid by a corporation on the redemption or acquisition of any of its shares;
- (g) amounts in respect of benefits from or under an estate, trust, contract, arrangement or power of appointment;
- (h) amounts received or deemed to have been received in the year by the corporation under section 44 as a shareholder in a personal corporation; and
- (i) amounts received by the corporation in the year that were dependent upon use of or production from property whether or not they were instalments of the sale price of the property, but instalments of the sale price of agricultural land shall not be included by virtue of this paragraph.

**6.** Where a payment under a contract or other arrangement can reasonably be regarded as being in part a payment of interest or other payment of an income nature and in part a payment of a capital nature, the part of the payment that can reasonably be regarded as a payment of interest or other payment of an income nature shall, irrespective of when the contract or arrangement was made or the form or legal effect thereof, be included in computing the recipient's income.

**7.—(1)** Where, in a taxation year,—

- (a) a payment has been made by a corporation to a shareholder otherwise than pursuant to a *bona fide* business transaction;
- (b) funds or property of a corporation have been appropriated in any manner whatsoever to, or for the benefit of, a shareholder; or
- (c) a benefit or advantage has been conferred on a shareholder by a corporation,

otherwise than on the reduction of capital, the redemption of shares or on the winding-up, discontinuance or re-organization of its business, the amount or value thereof shall be included in computing the income of the shareholder for the year.

(2) Where a corporation has, in a taxation year, made a loan to a shareholder the amount thereof shall be deemed to have been received by the shareholder as a dividend in the year unless the loan was made in the ordinary course of its business and the lending of money was part of its ordinary business.

(3) This section is applicable in computing the income of a shareholder for the purposes of this Act whether or not the corporation making the loan was resident or carried on business in Canada.

**8.—**(1) Where funds or property of a corporation having on hand undistributed income earned since the beginning of 1917 have, in a taxation year, been distributed or otherwise appropriated in any manner whatsoever to or for the benefit of one or more of its shareholders on the winding-up, discontinuance or re-organization of its business, a dividend shall be deemed to have been received by each shareholder equal to the lesser of,—

- (a) the amount or value of the funds or property so distributed or appropriated to it; or
- (b) the portion of the aforesaid undistributed income that was or would have been payable to it on the winding-up of the business at that time.

(2) Where a corporation having on hand undistributed income earned since the beginning of 1917 has,—

- (a) redeemed or acquired any of its common shares or reduced its common stock; or
- (b) converted any of its common shares into shares other than common shares or into some obligation of the corporation,

a dividend shall be deemed to have been received by each of the shareholders that held any of the shares immediately before the transaction was completed equal to the lesser of,—

- (i) the amount received or the value of that which was received by it for or in respect of the shares or the the reduction or conversion; or
- (ii) the portion of the aforesaid undistributed income that would have been payable to it on the winding-up of the business at that time.

(3) When, as a result of the reorganization of a corporation or the readjustment of its capital stock, the whole or any part of undistributed income on hand is capitalized, a dividend shall be deemed to have been received by each of the shareholders that held any of the shares immediately before the reorganization or readjustment was completed equal to

the proportion of the undistributed income so capitalized that would have been payable to it on the winding-up of the business at that time.

(4) Subsection (3) shall not be construed as limiting the amount of any dividend that may, for the purpose of this Act, be considered or deemed to have been paid.

(5) An annual or other periodic amount paid by a corporation to a shareholder in respect of an income bond or income debenture shall be deemed to have been received by the recipient as a dividend unless the corporation is entitled to deduct the amount so paid in computing its income.

(6) Where the Provincial Treasurer has notified a corporation by registered letter that in his opinion the undistributed income of the corporation exceeds what is reasonably required for the purposes of the business by an amount specified therein, a dividend equal to the amount specified in the notice shall be deemed to have been received by its shareholders on the day on which the registered letter was sent unless,—

- (a) it is established that the undistributed income on hand on that day did not exceed what was reasonably required for the purposes of the business in which case a dividend shall not be deemed under this subsection to have been received; or
- (b) it is established that the amount by which the undistributed income on hand on that day exceeded what was reasonably required for the purposes of the business is an amount less than that specified in the notice in which case the dividend that shall be deemed to have been received is the lesser amount.

(7) Where, under this section, a dividend has been deemed to have been received, the undistributed income of the corporation shall, for the purposes of this Act, be deemed to have been reduced by the amount deemed to have been received by the shareholders.

(8) When a dividend has, under subsection (6), been deemed to have been received by the shareholders, dividends actually received by the shareholders from the corporation within ninety days after the time when the dividends were deemed to have been received shall, to the extent of the dividends that were deemed to have been received, not be included in computing the income of the shareholders; and actual payment of dividends by the corporation within the aforesaid period of ninety days shall, to that extent, be deemed not to have reduced the undistributed income of the corporation.

(9) This section except subsection (6) is applicable in computing the income of a shareholder for the purpose of this Act whether or not the corporation having the undistributed income or the corporation mentioned in subsection (5) was resident or carried on business in Canada.

## AMOUNTS NOT INCLUDED IN COMPUTING INCOME.

**9.** There shall not be included in computing the income of a corporation for a taxation year,—

- (a) an amount that is declared to be exempt from income tax by any legislation of the Parliament of Canada; and
- (b) the income for the year of a non-resident corporation earned in Canada from the operation of a ship or aircraft owned or operated by it, if the country where that corporation resided grants substantially similar relief for the year to a corporation resident in Canada.

## DEDUCTIONS ALLOWED IN COMPUTING INCOME

**10.—**(1) Notwithstanding any other provision in this Division, the following amounts may, subject to subsections (2) and (3) of section 12 be deducted in computing the income of a corporation for a taxation year,—

- (a) such part of the capital cost to the corporation of property, or such amount in respect of the capital cost to the corporation of property, if any, as is allowed by regulation;
- (b) such amount as an allowance in respect of an oil or gas well, mine or timber limit, if any, as is allowed to the corporation by regulation;
- (c) an amount paid in the year, or payable in respect of the year (depending upon the method regularly followed by the corporation in computing its income), pursuant to a legal obligation to pay interest on borrowed money used for the purpose of earning income from a business or property (other than property the income from which would be exempt), but, if the rate at which the interest was computed was unreasonably high, only such part of the amount so paid or payable as would have been paid or payable if the rate had been reasonable may be deducted;
- (d) a reasonable amount as a reserve for,—
  - (i) doubtful debts that have been included in computing the income of the corporation for that year or a previous year; and
  - (ii) doubtful debts arising from loans made in the ordinary course of business by a corporation part of whose ordinary business was the lending of money;
- (e) the aggregate of debts owing to the corporation,—
  - (i) that are established by it to have become bad debts in the year; and
  - (ii) that have (except in the case of debts arising from loans made in the ordinary course of business by a corporation part of whose ordin-

ary business was the lending of money) been included in computing its income for that year or a previous year;

- (f) an amount not exceeding nine hundred dollars paid by the corporation to or under an approved superannuation fund or plan in respect of services rendered by each employee, officer or director of the corporation in the year plus such amount as may be deducted as a special contribution under section 52;
- (g) such amount in respect of expenditures on scientific research as is permitted by section 48;
- (h) the capital element of each annuity payment included in computing income for the year, that is to say,—
  - (i) if the annuity was paid under a contract, an amount equal to that part of the payment determined in prescribed manner to have been a return of capital; and
  - (ii) if the annuity was paid under a will or trust, such part of the payment as can be established by the recipient not to have been paid out of the income of the estate or trust;
- (i) where a corporation is an insurance corporation other than a life insurance corporation, such amounts in respect of payments made or credits allowed by it to its policy holders as are permitted by section 50;
- (j) such amounts in respect of payments made by the corporation pursuant to allocations in proportion to patronage as are permitted by section 51;
- (k) an amount equal to annual interest accruing within the taxation year in respect of succession duties or inheritance taxes; and
- (l) such amount as may be allowed by regulation in respect of taxes on income for the year from mining or logging operations.

(2) There may be deducted in computing the income of a shareholder from shares in a corporation whose income is derived from the operation of an oil or gas well, or mine, such amount, if any, as is allowed by regulation.

(3) Where a deduction is allowed under paragraph (b) of subsection (1) in respect of an oil or gas well, mine or timber limit operated by a lessee, the lessor and lessee may agree as to what portion of the allowance each may deduct and, in the event that they cannot agree, the Provincial Treasurer may fix the portions.

(4) Where property has been acquired by gift, bequest or inheritance by a corporation, the capital cost thereof to the corporation shall, for the purpose of paragraph (a) of subsection (1), be deemed to have been the fair market value thereof at the time the corporation so acquired it.



(5) Where a deduction has been made in computing the income of a corporation for one or more taxation years as permitted by paragraph (a) of subsection (1) in respect of property and the regulation by which the deduction was allowed described the allowance as "extra depreciation" or "special depreciation", if the property has been subsequently sold for an amount in excess of,—

- (a) the capital cost of the property;  
minus,
- (b) the aggregate of all amounts deducted in respect of the property under paragraph (a) of subsection (1) and under paragraph (n) of subsection (1) of section 6 of the *Income War Tax Act (Canada)*

the Provincial Treasurer may revise the corporation's assessment for the taxation years in which amounts so described as "extra depreciation" or "special depreciation" were deducted by adding to the income for each year such amount as may be prescribed and reassessing the tax payable accordingly.

(6) Notwithstanding any other provision in this Division, there may, subject to subsections (2) and (3) of section 12 be deducted in computing the income for a taxation year of a bank to which *The Bank Act* or the *Quebec Savings Bank Act* applies such amount as is set aside or reserved for the year either by way of write-down of the value of assets or appropriation to any contingency reserve or contingent account for the purpose of meeting losses on loans, bad or doubtful debts, depreciation in the value of assets other than bank premises, or other contingencies, and is, in the opinion of the Provincial Treasurer having regard to all the circumstances, not in excess of the reasonable requirements of the bank.

**11.—(1)** A corporation whose principal business is the production, refining or marketing of petroleum or petroleum products may deduct, in computing its income for the year of expenditure, an amount equal to the aggregate of the drilling and exploration costs, including all general geological and geophysical expenses incurred by it directly or indirectly on oil wells spudded in or the deepening of which commenced in 1949 and which wells are abandoned within six months after the completion of the drilling.

(2) A corporation, formed for the purpose of exploring and drilling for oil may deduct, in computing its income for the year of expenditure or, if the deduction permitted under this subsection exceeds the amount that would otherwise be the income for the year of expenditure, in computing the income for subsequent years, an amount equal to the exploration and drilling expenses incurred by it during the year 1949.

(3) A corporation formed for the purpose of exploring and drilling for natural gas may deduct, in computing its

income for the year of expenditure, exploration and drilling expenses incurred by it during the year 1949.

(4) A corporation whose chief business is that of mining or exploring for minerals may deduct, in computing its income for the year of expenditure, an amount equal to all prospecting, exploration and development expenses incurred by it in searching for minerals during the year 1949 if the corporation files certified statements of such expenditures and satisfies the Provincial Treasurer that it has been actively engaged in prospecting and exploring for minerals by means of qualified persons and has incurred the expenditure for such purposes.

(5) A corporation whose principal business is production, refining or marketing of petroleum or drilling for petroleum, may, with the consent of the Lieutenant Governor in Council, deduct, in computing its income for the year of expenditure, all expenditures other than geological or geophysical expenditures, made in connection with,—

- (a) the testing of a significant geological structure by a deep test oil well that was spudded in during 1949 and that proved unproductive; or
  - (b) the testing of a significant stratigraphic trap by a group of test wells that were spudded in during 1949 and drilled to an aggregate depth of twenty-five thousand feet and all of which wells proved unproductive,
- if, in the opinion of the Lieutenant Governor in Council,
- (c) drilling the deep test well or group of test wells was desirable in order to extend the petroleum resources of Canada; and
  - (d) the corporation could not reasonably be expected to drill the deep test well or group of test wells unless permitted to deduct the amount of the expenditures in computing its income.

(6) Where a corporation whose principal business is production, refining or marketing of petroleum or exploration or drilling for petroleum, is a shareholder or partner in or member of another corporation, 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 (5) of this section, the Provincial Treasurer may direct that it shall, to the extent of that payment, be deemed for the purpose of subsection (5) of this section, to have itself made the expenditure and in any such case no deduction may be made by reason of subsection (5) of this section by a corporation that made the expenditure.

(7) Where a corporation has incurred expenditures, the deduction of which from income is authorized under both

subsections (1) and (5) of this section, it shall not be entitled to make a deduction under both subsections but is entitled to elect to deduct the expenditures under either subsection.

(8) Where under section 8 or section 5 of *The Alberta Corporation Income Tax Act* or under this section or section 28 of this Act expenses are or have been deductible from or in computing, a corporation's income or where any amount is or has been deductible in respect of expenses under any of these provisions from taxes otherwise payable, it is hereby declared that no amount in respect of the same expenses is or has been deductible under any other authority in computing the income or from the income of that corporation or any other corporation for that taxation year or any other taxation year.

#### DEDUCTIONS NOT ALLOWED IN COMPUTING INCOME.

**12.**—(1) In computing income, no deduction shall be made in respect of,—

- (a) an outlay or expense except to the extent that it was made or incurred by the corporation for the purpose of gaining or producing income from property or a business of the corporation;
- (b) an outlay, loss or replacement of capital, a payment on account of capital or an allowance in respect of depreciation, obsolescence or depletion except as expressly permitted by this Act;
- (c) an outlay or expense to the extent that it may reasonably be regarded as having been made or incurred for the purpose of gaining or producing exempt income or in connection with property the income from which would be exempt;
- (d) the annual value of property except rent for property leased by the corporation for use in its business;
- (e) an amount transferred or credited to a reserve, contingent account or sinking fund except as expressly permitted by this Act;
- (f) an amount paid by a corporation other than a personal corporation as interest or otherwise to holders of its income bonds or income debentures unless the bonds or debentures have been issued or the income provisions thereof have been adopted since 1930;
  - (i) to afford relief to the debtor from financial difficulties; and
  - (ii) in place of or as an amendment to bonds or debentures that at the end of 1930 provided unconditionally for a fixed rate of interest;
- (g) a corporation tax, as defined by regulation, paid to the government of a province or to a municipality.

(2) In computing income, no deduction shall be made in respect of an outlay or expense otherwise deductible except to the extent that the outlay or expense was reasonable in the circumstances.

(3) In computing a corporation's income for a taxation year, no deduction shall be made in respect of an otherwise deductible outlay or expense payable by the corporation to a person with whom it was not dealing at arms-length if the amount thereof has not been paid before the day one year after the end of the taxation year; but, if an amount that was not deductible, in computing the income of one taxation year by virtue of this subsection was subsequently paid, it may be deducted in computing the corporation's income for the taxation year in which it was paid.

#### MISCELLANEOUS RULES FOR COMPUTING INCOME.

**13.—**(1) The income of a corporation for a taxation year shall be deemed to be not less than its income for the year from its chief source of income.

(2) The Provincial Treasurer may determine which source of income or sources of income combined is a corporation's chief source of income for the purpose of this section.

**14.—**(1) When a corporation has adopted a method for computing income from a business or property for a taxation year and that method has been accepted for the purposes of this Act, income from the business or property for a subsequent year shall, subject to the other provisions of this Act, be computed according to that method unless the corporation has, with the concurrence of the Provincial Treasurer, adopted a different method.

(2) For the purpose of computing income, the property described in an inventory shall be valued at its cost to the corporation or its fair market value, whichever is lower, or in such other manner as may be permitted by regulation.

**15.** Where a corporation is a partner of a business, its income from the partnership for a taxation year shall be deemed to be its income from the partnership for the fiscal period or periods that ended in the year.

**16.—**(1) A payment or transfer of money, rights or things made pursuant to the direction of, or with the concurrence of, a corporation to some other person for the benefit of the corporation or as a benefit that the corporation desired to have conferred on the other person shall be included in computing the corporation's income to the extent that it would be if the payment or transfer had been made to it.

(2) For the purpose of this Act, a payment or transfer in a taxation year of money, rights or things made to the corporation or some other person for the benefit of the corporation and other persons jointly or a profit made by the corporation and other persons jointly in a taxation year shall be deemed to have been received by the corporation in the year to the extent of its interest therein notwithstanding that there was no distribution or division thereof in that year.

(3) Where a corporation carrying on business in Canada has purchased anything from a person with whom it was not dealing at arms-length at a price in excess of the fair market value, the fair market value thereof shall, for the purpose of computing the corporation's income from the business, be deemed to have been paid or to be payable therefor.

(4) Where a corporation carrying on business in Canada has sold anything to a person with whom it was not dealing at arms-length at a price less than the fair market value, the fair market value thereof shall, for the purpose of computing the corporation's income from the business, be deemed to have been received or to be receivable therefor.

(5) Where a corporation carrying on business in Canada has paid, or agreed to pay, to a non-resident person with whom it was not dealing at arms-length as price, rental, royalty or other payment for use or reproduction of any property an amount computed at a rate higher than that at which similar payments by other persons in the same kind of business are computed, an amount computed at the rate at which similar payments are made by such other persons shall, for the purpose of computing the corporation's income from the business, be deemed to have been the amount that was paid or is payable therefor.

(6) Where a corporation has directly or indirectly distributed to its shareholders any of its property, either on winding-up or otherwise, for no consideration or for a consideration below the fair market value, if the sale thereof at the fair market value would have increased the corporation's income for a taxation year, for the purpose of determining the corporation's income, it shall be deemed to have sold the property during the year and to have received therefor the fair market value thereof.

**17.** A lease option agreement, a hire-purchase agreement or other contract or arrangement for the leasing or hiring of movable property by which it is agreed that the property may, on the satisfaction of a condition, vest in the lessee or other person to whom the property is leased or hired shall, for the purpose of computing the income of the lessee or other such person, be deemed to be an agreement for the sale of the property and rent or other consideration paid or given thereunder shall be deemed to be on account of the price of the property and not for its use; and the lessee or other person in whom the property may vest shall, for the purpose of a deduction under paragraph (a) of subsection (1) of section 10, be deemed as long as the contract or arrangement is outstanding to be the owner of the property the capital cost of which was the price fixed by the contract or arrangement.

**18.** Where a corporation resident in Canada has loaned money to a non-resident person and the loan has remained outstanding for one year or longer without interest

at a reasonable rate having been included in computing the lender's income, interest thereon, computed at five per cent per annum for the taxation year or the part of the year during which the loan was outstanding, shall, for the purpose of computing the lender's income, be deemed to have been received by the lender on the last day of each taxation year during all or part of which the loan has been outstanding.

**19.** Where a corporation has been allowed a deduction from tax under this Act for a previous taxation year in respect of taxes paid to the government of a country other than Canada, the corporation's income for a taxation year shall be deemed to be not less than its income for the year from all sources outside that country.

**20.—(1)** Where a corporation has received a security or other right or a certificate of indebtedness or other evidence of indebtedness wholly or partially as or in lieu of payment of or in satisfaction of an interest, dividend or other debt that was then payable and the amount of which would be included in computing its income if it had been paid, the value of the security, right or indebtedness 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, satisfaction of the right or discharge of the indebtedness shall not be included in computing the recipient's income.

(2) Where a security or other right or a certificate of indebtedness or other evidence of indebtedness has been received by a corporation wholly or partially as, or in lieu of payment of or in satisfaction of a debt before the debt was payable, but was not itself payable or redeemable before the day on which the debt was payable, it shall, for the purpose of subsection (1), be deemed to have been received when the debt became payable by the corporation holding it at that time.

(3) This section is enacted for greater certainty and shall not be construed as limiting the generality of the other provisions of this Act by which amounts are required to be included in computing income.

#### DIVISION C—COMPUTATION OF TAXABLE INCOME.

**21.** For the purpose of computing the taxable income of a corporation for a taxation year, there may be deducted from the income for the year such of the following amounts as are applicable:

- (a) the aggregate of gifts made by the corporation in the year to organizations in Canada operated exclusively for charitable purposes not exceeding five per cent of its income for the year if payment of the amounts given is proven by filing with the Provincial Treasurer receipts from the organizations; and

- (b) business losses sustained in the three years immediately preceding and the year immediately following the taxation year; but
  - (i) an amount in respect of a loss is only deductible to the extent that it exceeds the aggregate of amounts previously deductible in respect of that loss under this Act;
  - (ii) no amount is deductible in respect of the loss of any year until the deductible losses of previous years have been deducted; and
  - (iii) no amount is deductible in respect of losses from the income of any year except to the extent of the lesser of,—
    - (A) the corporation's income for the taxation year from the business in which the loss was sustained; or
    - (B) the corporation's income for the taxation year minus all deductions permitted by the provisions of this Division other than this paragraph.

**22.**—(1) Where a corporation in a taxation year received a dividend from a corporation that,—

- (a) was resident in Canada in the year and was not, by virtue of a statutory provision, exempt from tax under this Act for the year;
- (b) was exempt from tax under this Act for the year by virtue of the provision exempting investment companies; or
- (c) had never paid tax under this Act by virtue of provisions allowing a deduction or exemption from tax on income derived from the operation of base metal, strategic mineral, metalliferous and industrial mineral mines during the first three years of production;

an amount equal to the dividend minus any amount deducted under subsection (2) of section 10 in computing the recipient's income may be deducted from the income of that corporation for the year for the purpose of determining its taxable income.

(2) Where a corporation in a taxation year received a dividend from a non-resident corporation that is taxable under this Act for the year, an amount equal to the proportion of,—

- (a) the dividend,
- minus
- (b) any amount deducted under subsection (2) of section 10 in computing the recipient's income,

that the non-resident corporation's taxable income earned in Canada for the immediately preceding year is of the whole of its taxable income for that year may be deducted from the income of the recipient for the taxation year for the purpose of determining its taxable income.

(3) Where a corporation has, in its return of income under this Act for a taxation year, deducted under this section an amount in respect of a dividend, no loss arising from transactions with reference to the share in respect of which the dividend was received shall be allowed to reduce the income of the corporation for that or a subsequent taxation year.

**23.**—(1) Where a corporation resident in Canada has directly or indirectly received a dividend from a non-resident subsidiary wholly-owned corporation in a taxation year during the whole of which at least seventy-five per cent of the property (other than inter-company obligations and good will) of the principal corporation and all its subsidiary wholly-owned corporations is outside Canada, an amount equal to the dividend may be deducted from the corporation's income for the year for the purpose of determining its taxable income.

(2) Subsection (1) is not applicable unless the country where the subsidiary corporation resides grants substantially similar relief for the year to corporations resident therein in respect of dividends received by them from wholly-owned subsidiary corporations resident in Canada.

(3) Notwithstanding subsection (1), if, in any case, the dividends to which it would otherwise apply exceed the aggregate of the subsidiary corporation's income that was taxable in a country other than Canada in the taxation year when the dividends were declared and the income so taxable in the immediately preceding year, only the amount of the said aggregate may be deducted under this section.

**24.** Notwithstanding anything in this Act, the taxable income of a life insurance corporation for a taxation year is the aggregate of the amounts credited to the shareholders' account or otherwise appropriated for or on account of shareholders during the year minus the aggregate of,—

- (a) amounts charged in the year to the shareholders as their fair proportion of losses incurred upon investments or other losses of a similar character;
- (b) amounts transferred in the year from the shareholders' account to an insurance fund or an investment reserve fund;
- (c) in a case where an amount equal to dividends or portions of dividends would be deductible under sections 22 or 23, if those sections were applicable, such proportion of the amount credited or appropriated as aforesaid as may reasonably be regarded as having been derived from those dividends or portions of dividends; and
- (d) gifts made out of the shareholders' account by the corporation in the year to organizations in Canada operated exclusively for charitable purposes not exceeding in the aggregate for the year five per cent of the amount so credited or appropriated minus the amounts described by paragraphs (a) and (b).



## DIVISION D—COMPUTATION OF TAX.

**25**—The tax payable by a corporation under this Act for a taxation year is, except where otherwise provided, an amount equal to five per cent of that portion of its taxable income for the year attributable to its operations in Alberta.

**26.**—(1) A corporation may deduct from the tax otherwise payable under this Act for a taxation year during which it was resident in Canada an amount equal to one-sixth of the income tax deemed to have been paid to the government of a country other than Canada on the income out of which dividends (other than dividends in respect of which amounts are deductible from income under section 23) are paid to it in the year by a non-resident subsidiary controlled corporation, other than a subsidiary wholly-owned non-resident holding corporation, calculated in accordance with the following rules:

- (a) the dividends shall be deemed to have been paid out of income of the subsidiary for 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 a year shall be deemed to be an amount equal to that proportion of the dividends that the income tax paid by the subsidiary to that government for the year is of its income for that year.

(2) A corporation may deduct from the tax otherwise payable under this Act for a taxation year during which it was resident in Canada one-sixth of that proportion of the dividends received by it in the year from a subsidiary wholly-owned non-resident holding corporation that the income tax paid by the holding corporation's non-resident subsidiary controlled corporations to countries other than Canada on income for the year preceding the taxation year is of the aggregate of the incomes of the said subsidiary controlled corporations for the said preceding year.

(3) In this section "non-resident holding corporation" means a non-resident corporation that, in the taxation year in respect of which the expression is used, derives more than seventy-five per cent of its income from dividends from non-resident subsidiary controlled corporations.

(4) Notwithstanding this section and section 27 no more shall be deducted under those sections in respect of tax paid to a country other than Canada on dividends received in a taxation year by a corporation resident in Canada from a non-resident subsidiary corporation than the tax otherwise payable under this Act for the year on the amount of the dividends.

**27.**—(1) A corporation that was resident in Canada at any time in a taxation year may deduct from the tax for the

year otherwise payable under this Act in respect of income derived from sources in a country other than Canada an amount equal to the lesser of,—

- (a) one-sixth of the tax paid by it to the government of a country other than Canada on its income from sources therein for the year; or
- (b) that portion of its tax for the year otherwise payable under this Act that,—
  - (i) that part of the corporation's income for the year from sources in that country that was not exempt from income tax in that country minus amounts that are deductible for the year under section 23,

is of,

- (ii) the corporation's income for the year minus amounts that are deductible for the year under sections 22 and 23.

(2) In this section "tax otherwise payable" means the tax payable before making any deductions under section 26.

**28.** A corporation whose principal business is production, refining or marketing of petroleum or drilling for petroleum, may with the consent of the Lieutenant Governor in Council, deduct, from the taxes otherwise payable under this Act for the year of expenditure, five per cent of all expenditures other than geological or geophysical expenditures, made in connection with,—

- (a) the testing of a significant geological structure by a deep test oil well that was spudded in during 1949 and that proved unproductive; or
- (b) the testing of a significant stratigraphic trap by a group of test wells that were spudded in during 1949 and drilled to an aggregate depth of twenty-five thousand feet and all of which wells, proved unproductive;

if, in the opinion of the Lieutenant Governor in Council,

- (c) drilling the deep test well or group of test wells was desirable in order to extend the petroleum resources of Canada; and
- (d) the taxpayer could not reasonably be expected to drill the deep test well or group of test wells unless permitted to deduct the amount of the expenditures from tax as provided in this subsection.

**29.** 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.

DIVISION E—RETURNS, ASSESSMENTS, PAYMENT  
AND APPEALS.

RETURNS.

**30.**—(1) A return of the income for each taxation year shall, without notice or demand therefor, be filed with the Provincial Treasurer in prescribed form and containing prescribed information by or on behalf of the corporation within six months from the end of the year, or in a case where no return has been filed it shall be filed by such person as is required by notice in writing from the Provincial Treasurer to file the return, within such reasonable time as the notice specified.

(2) Every corporation, whether or not it is liable to pay tax under this Act for a taxation year and whether or not it has filed a return under subsection (1), shall, upon receipt at any time of a demand therefor in writing from the Provincial Treasurer or any person thereunto authorized by the Provincial Treasurer file forthwith with the Provincial Treasurer a return of its income for the year in prescribed form and containing prescribed information.

(3) Every trustee in bankruptcy, assignee, liquidator, curator, receiver, trustee or committee and every agent or other person administering, managing, winding-up, controlling or otherwise dealing with the property, business, estate or income of a corporation that has not filed a return for a taxation year as required by this section shall file a return in prescribed form of that corporation's income for that year.

ESTIMATE OF TAX.

**31.** Every person required by section 30 to file a return of income shall in the return estimate the amount of tax payable.

ASSESSMENT.

**32.**—(1) The Provincial Treasurer shall, with all due despatch, examine each return of income and assess the tax for the taxation year and the interest and penalties, if any, payable.

(2) After examination of a return, the Provincial Treasurer shall send a notice of assessment to the person by whom the return was filed.

(3) Liability for tax under this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

(4) The Provincial Treasurer may at any time assess tax, interest or penalties and may,—

- (a) at any time, if the corporation or person filing the return has made any misrepresentation or committed any fraud in filing the return or supplying information under this Act; and
- (b) within six years from the day of an original assessment in any other case,

reassess or make additional assessments.

(5) The Provincial Treasurer is not bound by a return or information supplied by or on behalf of a corporation and, in making an assessment, may, notwithstanding a return or information so supplied or if no return has been filed, assess the tax payable under this Act.

(6) An assessment shall, subject to being varied or vacated on an objection or appeal under this Act and subject to a reassessment, be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

**33.**—(1) Where there has been omitted from a return of income any dividend, rental, interest, royalty or other similar amount the omission of which is, on inquiry by or on behalf of the Provincial Treasurer or on information received from a person other than the corporation or person making the return, subsequently discovered, the corporation may be deemed to have received double the amount so omitted from the return and the tax may be assessed accordingly.

(2) This section shall not be construed as providing for a penalty in substitution for any penalty otherwise provided for in this Act.

**34.**—(1) Every corporation shall, during the twelve-month period ending six months after the close of each taxation year, pay to the Provincial Treasurer,—

- (a) on or before the last day of each of the first six months in that period, an amount equal to one-twelfth of the tax as estimated by it at the rate for the taxation year,—
  - (i) on its estimated taxable income for the year; or
  - (ii) on its taxable income for the immediately preceding year;
- (b) on or before the last day of each of the next five months in the period, an amount equal to one-sixth of the remainder of the tax payable as estimated by it on its taxable income for the year at the rate for the year; and
- (c) on or before the last day of the period, the remainder of the tax as estimated under section 31.

(2) Where a corporation has held forth the prospect that it will make allocations in proportion to patronage to its customers of a taxation year as described by section 51 and its income for the year is estimated by it to be not more

than three thousand dollars, it may, instead of paying the instalments required by subsection (1) pay to the Provincial Treasurer at the end of the twelve-month period referred to in subsection (1) the whole of the tax as estimated under section 31.

**35.**—(1) The corporation shall, within thirty days from the day of mailing of the notice of assessment, pay to the Provincial Treasurer any part of the assessed tax, interest and penalties then remaining unpaid, whether or not an objection to or appeal from the assessment is outstanding.

(2) Where, in the opinion of the Provincial Treasurer, a corporation is attempting to avoid payment of taxes, the Provincial Treasurer may direct that all taxes, penalties and interest be paid forthwith upon assessment.

**36.**—(1) Every person required by section 30 to file a return of the income of a corporation for a taxation year shall, within thirty days from the day of mailing of the notice of assessment, pay all taxes, penalties and interest payable by or in respect of that corporation, to the extent that he has or had, at any time since the taxation year, in his possession or control property belonging to that corporation.

(2) Every trustee in bankruptcy, assignee, liquidator, administrator, executor and other like person, before distributing any property under his control, shall obtain a certificate from the Provincial Treasurer certifying that there are not outstanding any taxes, interest or penalties that have been assessed under this Act and are chargeable against or payable out of the property.

#### INTEREST.

**37.**—(1) Where the amount paid on account of tax payable by a corporation under this Act for a taxation year before the expiration of the time allowed for filing the return of the corporation's income is less than the amount of tax payable for the year under this Act, the person liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for filing the return of income to the day of payment at the rate of,—

- (a) six per cent per annum for the part of the period preceding the thirtieth day after the day of mailing of the notice of assessment or the one hundred and twentieth day after the expiration of the time allowed for filing the return of the income, whichever is the later; and
- (b) seven per cent per annum for the remainder, if any, of the period.

(2) In addition to the interest payable under subsection (1), where a corporation, being required by this Act to pay a part or instalment of tax, has failed to pay all or any part thereof as required, it shall, on payment of the amount it

failed to pay, pay interest at six per cent per annum from the day on or before which it was required to make the payment to the day of payment or the beginning of the period in respect of which it becomes liable to pay interest thereon under subsection (1), whichever is earlier.

(3) In addition to the interest payable under subsection (1), where a corporation that paid tax under subsection (2) of section 34 had an income for the taxation year of more than three thousand dollars, it shall, forthwith after assessment, pay an amount equal to three per cent of the tax payable under this Act for the taxation year.

(4) For the purposes of subsection (2), where a corporation is required to pay a part or instalment of tax for a taxation year as estimated by it on its taxable income for a preceding year or on its estimated taxable income for the taxation year, it shall be deemed to have been liable to pay a part or instalment computed by reference to the taxable income for,—

- (a) the preceding year; or
- (b) the taxation year,

whichever is the lesser.

(5) Notwithstanding any other provision in this section, no interest is payable in respect of the amount by which the tax payable by a corporation is increased by a payment made by the Canadian Wheat Board on a participation certificate previously issued to it until thirty days after the payment is made.

(6) No interest under this section upon the amount by which the unpaid taxes exceed the amount estimated under section 31 is payable in respect of the period beginning twenty months after the day fixed by this Act for filing the return of the corporation's income upon which the taxes are payable or twenty months after the return was actually filed, whichever was later, and ending thirty days from the day of mailing of the notice of the original assessment for the taxation year.

#### PENALTIES.

**38.**—(1) Every corporation or other person failing to make a return as and when required by subsection (1) of section 30 is liable to a penalty of,—

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

(2) Every person failing to file a return as required by subsection (3) of section 30 is liable to a penalty of ten dollars for each day of default but not exceeding fifty dollars.

(3) Every corporation or other person who has failed to complete the information on a prescribed form as required by, or pursuant to section 30 is liable to a penalty of one per cent of the tax payable under this Act, but whether taxable or not, not less than twenty-five dollars or more than one hundred dollars.

#### REFUND OF OVERPAYMENT.

**39.**—(1) The Provincial Treasurer may, upon mailing the notice of assessment, refund, without application therefor, any overpayment made on account of the tax and he shall make such a refund after mailing the notice of assessment if application in writing is made therefor by the corporation within twelve months from the day the overpayment was made or the day on which the notice of assessment was sent.

(2) Instead of making a refund that might otherwise be made under this section, the Provincial Treasurer may, where the corporation is liable or about to become liable to make another payment under this Act, apply the amount of the overpayment to that other liability and notify the corporation of that action.

(3) Where an amount in respect of an overpayment is refunded or applied on other liability under this section, interest shall be paid or applied for the period commencing,—

- (a) on the day when the overpayment arose;
- (b) on the day on or before which the return of the income in respect of which the tax was paid was required to be filed; or
- (c) on the day that the return of income was actually filed;

whichever was later, and ending with the day of refunding or application aforesaid at the rate of,—

- (i) two per cent per annum on the amount of the overpayment or on five thousand dollars, whichever is lesser; and
- (ii) one-half of one per cent per annum on any part of the overpayment in excess of five thousand dollars,

unless the amount of the interest so calculated is less than one dollar, in which event no interest is payable under this subsection.

(4) For the purpose of this section “overpayment” means the aggregate of all amounts paid on account of tax minus all amounts payable under this Act or an amount so paid where no amount is so payable.

#### APPEALS.

**40.**—(1) After the first day of January, 1949, a corporation that objects to the amount at which it is assessed, or considers that it is not liable to taxation, may, within two

months after the day of mailing the notice of assessment provided for in section 32 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 be in Form A in the Second Schedule to this Act and 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.

**41.—**(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 in Form B in the Second Schedule to this Act shall be deposited with or sent by registered post to the Clerk of the Supreme Court not later than three months from the date of the decision of the Provincial Treasurer.

(2) On receipt of the notice of appeal, the Clerk shall send one of the copies to the Provincial Treasurer who shall, in due course, after receipt of such copy, file with the Clerk of the Court typewritten copies of the following documents:

- (a) the return of income of the appellant, if any, for the period under review;
- (b) the notice of assessment appealed;
- (c) the notice of appeal from the assessment;
- (d) the decision of the Provincial Treasurer;
- (e) the notice of appeal from the decision of the Provincial Treasurer; and
- (f) all other documents and papers relative to the assessment under appeal;

and shall immediately thereafter give notice by registered post to the appellant of the date of such filing.

(3) Within six months 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, provided that an extension of the time so appointed up to six months after the date of application shall be granted if so requested by either party to the appeal.



(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 and the Court or a judge thereof may direct the parties to file pleadings.

(5) At the hearing of the appeal the Court or Judge shall consider and hear the cause upon the material filed with the Clerk and upon such further material or evidence as the Court 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 Court and the Court may order costs in favor of or against the Crown and may fix the amount thereof.

#### GENERAL.

**42.** An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act.

#### DIVISION F—EXEMPTIONS.

**43.—**(1) No tax is payable under this Act upon the taxable income of a corporation for a period when that corporation was,—

- (a) a municipality or a municipal or public body performing a function of a government;
- (b) a corporation, not less than ninety per cent of the shares or capital of which was owned by His Majesty in right of Canada or a province or by a Canadian municipality;
- (c) an organization operated exclusively for charitable purposes or an agricultural organization, a board of trade or a chamber of commerce, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof;
- (d) a labour organization or society or a benevolent or fraternal benefit society or order;
- (e) a club, society or association organized and operated exclusively for social welfare, civic improvement, pleasure or recreation or for any other purpose except profit, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof;

- (f) a mutual insurance corporation that received its premiums wholly from the insurance of churches, schools or other charitable organizations;
- (g) a corporation or association incorporated or organized as a credit union or co-operative credit society if:
  - (i) it was restricted to carrying on business in the province and it derived its revenue primarily from loans made to members residing within the province; or
  - (ii) the members thereof were corporations or associations
    - (A) incorporated or organized as credit unions deriving their revenues primarily from loans made to members;
    - (B) incorporated, organized or registered under provincial co-operative legislation or governed by such legislation; or
    - (C) incorporated or organized for charitable purposes;
 

or were corporations or association no part of the income of which was payable to, or otherwise benefited personally, any shareholder or member thereof;
- (h) 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*;
- (i) a corporation exempt by section 44 as a personal corporation;
- (j) a corporation exempt by section 45 as an investment company;
- (k) a corporation exempt by section 46 as a non-resident-owned investment corporation;
- (l) a corporation exempt by section 47 as a foreign business corporation;
- (m) a co-operative corporation exempt by section 49; or
- (n) a trust or corporation established or incorporated solely in connection with, or for the administration of, an approved superannuation fund or plan.

(2) Where it is necessary for the purpose of this section to ascertain the taxable income of a corporation for a period that is a part of a taxation year, the taxable income for the period shall be deemed to be the proportion of the taxable income for the taxation year that the number of days in the period is of the number of days in the taxation year.

#### DIVISION G—EXCEPTIONAL CASES AND SPECIAL RULES.

##### PERSONAL CORPORATIONS.

**44.**—(1) The income of a personal corporation whether actually distributed or not shall be deemed to have been

distributed to, and received by, the shareholders as a dividend on the last day of each taxation year of the corporation.

(2) No tax is payable under this Act on the taxable income of a corporation for a taxation year during which it was a personal corporation.

(3) The part of the income of a personal corporation that shall be deemed, under this section, to have been distributed to and received by a shareholder of the corporation, shall be the proportion thereof that the value of all property transferred or loaned to the corporation by the shareholder or any person by whom his share was previously owned is of the value of the property so acquired by the corporation from all its shareholders.

(4) The value of property transferred or loaned to a personal corporation shall be deemed, for the purposes of this section, to be its value at the time when the property was transferred or loaned to the corporation.

(5) For the purposes of this section, where the property of a personal corporation is transferred to or otherwise acquired by another personal corporation, the shareholders of the first corporation shall be deemed to have transferred to the second corporation the property that they or persons who previously owned their shares transferred to the first corporation.

(6) Where dividends have, in a taxation year, actually been paid by a personal corporation or a corporation that had previously been a personal corporation, they shall only be included in computing the incomes of the shareholders by whom they were received for the taxation year to the extent that the aggregate of the dividends paid in that year exceeds,—

- (a) the aggregate of the amounts deemed, under this section, to have been distributed by it to its shareholders while it was a personal corporation, minus
- (b) the aggregate of dividends actually paid by the corporation previous to that time and not included, by virtue of this section, in computing the incomes of the shareholders by whom they were received;

and where that excess is less than the aggregate of the dividends so paid, the amount that shall be so included in computing a particular shareholder's income for the year is the proportion of the excess that his dividend is of the aggregate of the dividends so paid.

(7) The shareholder by whom a personal corporation is controlled shall file for each taxation year a statement of the assets, liabilities and income of the personal corporation for the year.

(8) In this Act, a "personal corporation" means a corporation that, during the whole of the taxation year in respect of which the expression is being applied,—

- (a) was controlled, whether through holding a majority of the shares of the corporation or in any other manner whatsoever, by an individual resident in Canada, by such an individual and one or more members of his family who were resident in Canada or by any other person on his or their behalf;
  - (b) derived at least one-quarter of its income from,—
    - (i) ownership of or trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes or other similar property or an interest therein;
    - (ii) lending money with or without securities;
    - (iii) rents, hire of chattels, charterparty fees or remunerations, annuities, royalties, interest or dividends; or
    - (iv) estates or trusts; and
  - (c) did not carry on an active financial, commercial or industrial business.
- (9) For the purpose of paragraph (a) of subsection (8), the members of an individual's family are his spouse, sons and daughters whether or not they live together.

#### INVESTMENT COMPANIES.

**45.**—(1) No tax is payable under this Act on the taxable income of a corporation for a taxation year in which it was an investment company.

(2) In this Act, “an investment company” means a corporation that, during the whole of the taxation year in respect of which the expression is being applied, complied with the following conditions:

- (a) at least eighty per cent of its property was, throughout the year, shares, bonds, marketable securities or cash;
- (b) not less than ninety-five per cent of its income for the year was derived from investments mentioned in paragraph (a).;
- (c) not more than ten per cent of its property was throughout the year, shares, bonds, or securities of any one corporation or debtor other than His Majesty in right of Canada or of a province or a Canadian municipality;
- (d) its shares were, throughout the year, held by at least fifty or more persons of whom none held more than twenty-five per cent; and
- (e) at least eighty-five per cent of its taxable income plus exempt income for the year other than dividends or interest received in the form of shares, bonds or other securities that have not been sold before the end of the taxation year minus taxes paid to other governments was distributed to the shareholders before the expiration of one hundred and twenty days after the end of the year.

## NON-RESIDENT-OWNED INVESTMENT CORPORATION.

**46.**—(1) No tax is payable under this Act by a corporation for a taxation year during which it was a non-resident-owned investment corporation.

(2) In this Act, a “non-resident-owned investment corporation” means a corporation incorporated in Canada that during the whole of the taxation year in respect of which the expression is being applied complied with the following conditions:

- (a) at least ninety-five percent of the aggregate value of its issued shares and all of its bonds, debentures and other funded indebtedness were;
  - (i) beneficially owned by non-resident persons;
  - (ii) owned by trustees for the benefit of non-resident persons or their unborn issue; or
  - (iii) owned by a corporation, whether incorporated in Canada or elsewhere, at least ninety-five per cent of the aggregate value of the issued shares of which and all of the bonds, debentures and other funded indebtedness of which were beneficially owned by non-resident persons or owned by trustees for the benefit of non-resident persons or their unborn issue or by several such corporations;
- (b) its income was derived from,—
  - (i) ownership of or trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes or other similar property or any interest therein;
  - (ii) lending money with or without security;
  - (iii) rents, hire of chattels, charterparty fees or remunerations, annuities, royalties, interest or dividends; or
  - (iv) estates or trusts;
- (c) its principal business was not the making of loans of five hundred dollars or less;
- (d) it has within ninety days from the commencement of the taxation year, elected in a prescribed manner to be taxed under this section; and
- (e) it has not, before the taxation year, revoked in a prescribed manner the elections so made by it.

## FOREIGN BUSINESS CORPORATIONS.

**47.**—(1) No tax is payable under this Act upon the taxable income of a corporation for a taxation year when it was a foreign business corporation.

(2) In this Act, unless the context otherwise requires, a “foreign business corporation” is a corporation that during the whole of the taxation year in respect of which the expression is being applied,—

- (a) was not a personal corporation;
  - (b) has filed a return for the year in prescribed form; and
  - (c) complied with one of the following conditions:
    - (i) its business operations were of an industrial, mining, commercial, public utility or public service nature and were, except for management and the designing, purchasing and transportation of goods, carried on entirely outside Canada either directly or through ownership of shares in or control of subsidiary or affiliated corporations and its property, except securities and bank deposits, was situate entirely outside Canada;
    - (ii) it was the wholly-owned subsidiary of a corporation that complied with the conditions in subparagraph (i) and was wholly engaged in carrying on business outside Canada; or
    - (iii) its business was of an investment or financial nature and was carried on entirely outside Canada, its shares had been offered for public subscription or were listed on a recognized stock exchange in Canada or elsewhere and its property (except bank deposits and shares of other corporations that were entitled to exemption under this section) were situate entirely outside Canada.
- (3) For the purposes of this section, shares and bonds of corporations incorporated in Canada shall be deemed to be property situate in Canada notwithstanding that they have been transferred on a register outside Canada.

#### SCIENTIFIC RESEARCH.

**48.**—(1) There may be deducted in computing the income for a taxation year of a corporation that carried on business in Canada and made expenditures in respect of scientific research in the year,—

- (a) all expenditures of a current nature made in Canada in the year;
  - (i) on scientific research related to the business and directly undertaken by or on behalf of the corporation;
  - (ii) by payments to an approved association that undertakes scientific research related to the class of business of the corporation;
  - (iii) by payments to an approved university, college, research institute or other similar institution to be used for scientific research related to the class of business of the corporation; and
- (b) one-third of expenditures of a capital nature made in Canada in the year and the two years immediately

preceding that year on scientific research related to the business and directly undertaken by or on behalf of the corporation.

(2) Not more than five per cent of the taxable income of the corporation for the year preceding the taxation year may be deducted under this section unless the research program in respect of which the expenditures were made has been approved.

(3) No deduction may be made under this section in respect of an expenditure made to acquire rights in, or arising out of, scientific research or in respect of an amount deducted under this Act from income in respect of a gift to a charitable organization.

(4) In this section, unless the context otherwise requires,—

- (a) “approved” means approved by the Provincial Treasurer;
- (b) “scientific research” means any activity in the field of natural or applied science for the extension of knowledge;
- (c) references to expenditures on scientific research include all expenditures incurred for the prosecution, or the provision of facilities for the prosecution, of scientific research;
- (d) references to scientific research relating to a business or class of business include any scientific research that may lead to or facilitate an extension of that business or, as the case may be, business of that class.

#### CO-OPERATIVES.

**49.** No tax is payable under this Act upon the taxable income for each of the first three taxation years after commencement of its business of a corporation that commenced business on or after January 1, 1947, and that was incorporated under provincial legislation respecting the establishment of co-operative corporations for the purpose of marketing (including processing incident to or connected therewith) natural products belonging to or acquired from its members or customers, or purchasing supplies, equipment or household necessities for or to be sold to its members or customers, or of performing services for its members or customers, if during the taxation year,—

- (a) the statute under which it was incorporated, its charter, articles of association or by-laws or its contracts with its members or its members and customers held forth the prospect that payments would be made to them in proportion to patronage;
- (b) none of its members had more than one vote in the conduct of the affairs of the corporation;

- (c) at least ninety per cent of its members are individuals and at least ninety per cent of its shares, if any, are held by individuals;
- (d) the rate of interest on capital subscribed by its members or the rate of its dividends on its shares did not exceed five per cent per annum;
- (e) the value of the products marketed for or acquired from, supplies, equipment and household necessities purchased for or sold to, and services performed for its customers other than members did not exceed twenty per cent of the total thereof for all its business; and
- (f) the business carried on by the corporation was not a continuation of a previous business in which a substantial number of its members had a substantial interest, either as shareholders of a corporation carrying on the previous business or otherwise.

#### REFUND OF PREMIUMS.

**50.** In computing the income for a taxation year of an insurance corporation other than a life insurance corporation, whether a mutual corporation or a joint stock company, there may be deducted every amount credited in respect of business for the year to a policyholder of the corporation by way of dividend, refund of premiums or refund of premium deposits if the amount was, during the year or within twelve months thereafter,—

- (a) paid to the policyholder;
- (b) applied in discharge, in whole or in part, of a liability of the policyholder to pay premiums to the corporation; or
- (c) credited to the account of the policyholder on terms that he is entitled to payment thereof on or before expiry or termination of the policy.

#### PATRONAGE DIVIDENDS.

**51.—(1)** Notwithstanding anything in this Act, there may be deducted, in computing income for a taxation year, the aggregate of the payments made, pursuant to allocations in proportion to patronage, by a corporation,—

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

(2) Notwithstanding subsection (1), if the corporation has not made allocations in proportion to patronage in respect of all its customers of the 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 under this section is an amount equal to the lesser of,—



- (a) the aggregate of the payments mentioned in subsection (1); or
- (b) the aggregate of,—
  - (i) the part of the income of the corporation for the year attributable to business done with members; and
  - (ii) the allocations in proportion to patronage made to non-member customers of the year.

(3) Where the deduction of an amount under subsection (1) or (2) would result in the corporation's taxable income for the taxation year (before deduction of any amount under section 21 in respect of business losses) being less than the amount by which, —

- (a) three per cent of the capital employed in the business at the commencement of the year,  
exceeds
- (b) the interest, if any, paid on borrowed moneys (other than moneys borrowed from a bank incorporated under the *Bank Act* or from a corporation or association described in paragraph (g) of subsection (1) of section 43 and deductible in computing his income for the year,

the amount that may be deducted under this section is such as will leave the corporation with a taxable income (before deduction of any amount under section 21 in respect of business losses) equal to the excess.

(4) For the purposes of this section,—

- (a) “allocation in proportion to patronage” for a taxation year means an amount credited by a corporation to a customer of that year on terms that the customer is entitled to or will receive payment thereof, 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, 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) the amount was credited,
    - (A) within the year or within twelve months thereafter; and
    - (B) at the same rate in relation to quantity, quality or value aforesaid as the rate at which amounts were similarly credited to all other customers of that year who were members or to all other customers of that year, as the case may be, with appropriate differences aforesaid for different classes, grades, or qualities; and
  - (ii) the prospect that amounts would be so credited was held forth by the corporation to its custom-

ers of that year who were members or non-member customers of that year, as the case may be;

- (b) "capital employed in the business" shall be computed in accordance with the First Schedule to the *Excess Profits Tax Act, 1940*, 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 described in paragraph (g) of subsection (1) of section 43);
- (c) "customer" means a customer of a corporation and includes a person who sells or delivers goods or products to the corporation, or for whom the corporation renders services;
- (d) "consumer goods or services" means goods or services the cost of which was not deductible by the corporation in computing the income from a business or property;
- (e) "income of the corporation attributable to business done with members" of any taxation year means that proportion of the income of the corporation for the year (before making any deduction under this section) that the value of the goods or products acquired, marketed, handled, dealt in or sold or services rendered by the corporation from, on behalf of, or for members, is of the total value of goods or products acquired, marketed, handled, dealt in or sold or services rendered by the corporation from, on behalf of, or for all customers during the year;
- (f) "payment" includes;
  - (i) the issue of a certificate of indebtedness or shares of the corporation or of a corporation of which the corporation is a subsidiary wholly-owned corporation if the taxpayer or that corporation has in the year or within twelve months thereafter disbursed an amount of money equal to the aggregate face value of all certificates or shares so issued in the course of redeeming or purchasing certificates of indebtedness or shares of the taxpayer or that corporation previously issued;
  - (ii) the application by the corporation of an amount to a member's liability to the corporation (including, without restricting the generality of the foregoing, an amount applied in fulfilment of an obligation of the member to make a loan to the corporation and an amount applied on account of payment for shares issued to a member) pursuant to a by-law of the corporation, pursuant to statutory authority or at the request of the member; or
  - (iii) the amount of a payment or transfer by the corporation that, under subsection (1) of sec-

tion 16, is required to be included in computing the income of a member;

- (g) "member" means a person who is entitled as a member or shareholder to full voting rights in the conduct of the affairs of the corporation or of a corporation of which the corporation is a subsidiary wholly-owned corporation; and
- (h) "non-member customer" means a customer who is not a member.

(5) For the purpose of this section a corporation shall be deemed to have held forth the prospect that amounts would be credited to a customer of a taxation year by way of allocation in proportion to patronage, if,—

- (a) throughout the year the statute under which the corporation was incorporated or registered, its charter, articles of association or by-laws or its contract with the customer held forth the prospect that amounts would be so credited to customers who are members or non-member customers, as the case may be; or
- (b) prior to the commencement of the year or prior to such other day as may be prescribed for the class of business in which the corporation is engaged, the corporation has published an advertisement in prescribed form in a newspaper or newspapers of general circulation throughout the greater part of the area in which the corporation carried on business holding forth that prospect to customers who are members or non-member customers, as the case may be, and has filed copies of the newspapers with the Provincial Treasurer before the end of the thirtieth day of the taxation year or within thirty days from the prescribed day, as the case may be.

(6) Where a payment has been received by a corporation in respect of an allocation in proportion to patronage (other than an allocation in respect of consumer goods or services), the amount thereof shall be included in computing the recipient's income for the taxation year in which the payment was received and, without restricting the generality of the foregoing, where a certificate of indebtedness or a share was issued to a corporation in respect of an allocation in proportion to patronage, the amount thereof shall be included in computing the recipient's income for the taxation year in which the certificate or share was received and not in computing its income for the year in which the indebtedness was subsequently discharged or the share was redeemed.

#### SPECIAL CONTRIBUTIONS BY EMPLOYERS TO SUPERANNUATION FUNDS.

**52.** Where a corporation is an employer and has made a special payment (or payments) in Canada on account of an employees' superannuation or pension fund or plan in respect of the past services of employees pursuant to a recom-

mendation by a qualified actuary in whose opinion the resources of the fund or plan required to be augmented by the amount of one or more special payments to ensure that all the obligations of the fund or plan to the employees may be discharged in full and has made the payment so that it is irrevocably vested in or for the fund or plan and the payment has been approved by the Provincial Treasurer there may be deducted in computing the income for the taxation year the lesser of,—

- (a) one-tenth of the whole amount so recommended to be paid; or
- (b) the amount by which the aggregate of the amounts so paid during a period not exceeding ten years ending with the end of the taxation year exceeds the aggregate of the amounts that were deductible under this section in respect thereof in computing the income of the corporation for the previous years.

#### MINING CORPORATIONS.

**53.**—(1) Where a corporation establishes that a mine was,—

- (a) a metalliferous mine; or
- (b) an industrial mineral mine certified by the Provincial Treasurer to have been operating on mineral deposits (other than bedded deposits such as building stone);

that come into production of ore during the calendar years 1946 to 1949, inclusive, income derived from the operation of the mine during the period of thirty-six months commencing with the day on which the mine came into production (other than any portion thereof in the year 1946) shall, subject to prescribed conditions, not be included in computing the income of the corporation.

(2) In this section, “production” means production in reasonable commercial quantities.

#### CONSOLIDATED RETURNS.

**54.**—(1) A corporation that is resident in Canada may elect by notice to the Provincial Treasurer in prescribed manner to file a return in which its taxable income is consolidated with the taxable income of all its subsidiary wholly-owned corporations resident in Canada, carrying on the same general class of business as itself and having the same taxation year as itself.

(2) An election under this section is effective in respect to the electing corporation and all its subsidiary wholly-owned corporations carrying on in Canada the same general class of business as itself and having the same taxation year as itself (including a corporation that came within that class after the election was filed) for the first complete

taxation year commencing after the election and for every taxation year thereafter until the end of the taxation year in which it was revoked in prescribed manner.

(3) Where a corporation has revoked an election made under this section, it may not make a further election under this section during the five-year period commencing on the day the revocation is filed.

(4) Where a corporation has elected under this section, it and the subsidiary corporations affected shall, for the purpose of this Act, be deemed, in respect of every taxation year for which the election is effective, to be one corporation that owned all the property of all the corporations and the taxable income of which, for a taxation year, is the consolidated taxable income for the year of all the corporations affected calculated in accordance with subsection (6).

(5) A corporation that has elected under this section shall file a return in prescribed form and containing prescribed information of the consolidated taxable income for each taxation year for which the election is effective within six months from the end of the year; and a return filed under this section shall be deemed to be a return required by section 30.

(6) Where an election under this section is effective for a taxation year, the consolidated taxable income for the taxation year is, subject to the other provisions of this section, the aggregate of the taxable incomes of the individual corporations for the taxation year minus the aggregate of the losses sustained by the individual corporations in the taxation year.

(7) When computing the taxable income of an individual corporation for the purpose of subsection (6), no deduction shall be made from the income of the corporation for the year in respect of any loss sustained by the corporation in a previous or subsequent year.

(8) From the consolidated taxable income for a taxation year there may be deducted the consolidated loss, if any, in the three years immediately preceding the year immediately following the taxation year; but

- (a) an amount in respect of a loss is only deductible to the extent that it exceeds the aggregate of amounts previously deductible in respect of that loss under this Act; and
- (b) no amount is deductible in respect of the loss of any year until the deductible losses of previous years have been deducted.

(9) For the purpose of subsection (8), consolidated loss for a taxation year is the aggregate of such losses as any of the individual corporations may have sustained in the year minus the aggregate of the incomes for the year of the other corporations affected by the election to consolidate.

(10) Where the loss sustained by a corporation in a taxation year is included in computing the consolidated taxable income or the consolidated loss under this section, the amount thereof shall, for the purpose of paragraph (b) of section 21, be deemed to have been deducted under that paragraph in the year in which it was so included.

(11) Where a return for a taxation year is required to be filed under this section, the tax payable under this Act is an amount equal to five and one-third per cent of the consolidated taxable income for the year.

---

## PART II.

### ADMINISTRATION AND ENFORCEMENT.

#### ENFORCEMENT.

**55.**—(1) The Provincial Treasurer shall administer and enforce this Act and control and supervise all persons employed to carry out or enforce this Act.

(2) The Lieutenant Governor in Council may appoint such officers and servants as are necessary to administer and enforce this Act and may fix their remuneration.

(3) The Provincial Treasurer may, if he considers it advisable in a particular case, accept security for payment of taxes by way of mortgage or other charge of any kind whatsoever on property of the corporation or any other person or by way of guarantee from other persons.

**56.**—(1) The Lieutenant Governor in Council may make regulations,—

- (a) prescribing anything that, by this Act, is to be prescribed or is to be determined or regulated by regulation;
- (b) prescribing the evidence required to establish facts relevant to assessments under this Act;
- (c) to facilitate the assessment of tax where deductions or exemptions of a corporation have changed in a taxation year;
- (d) requiring any class of corporations to make information returns respecting any class of information required in connection with assessments under this Act;
- (e) authorizing a designated officer or class of officers to exercise powers or perform duties of the Provincial Treasurer under this Act;
- (f) assigning the names of office of officers and other persons appointed under this Act; and
- (g) generally to carry out the purposes and the provisions of this Act.

(2) No regulation made under this Act has effect until it has been published in *The Alberta Gazette* but, when so published, a regulation shall, if it so provides, be effective with reference to a period before it was published.

#### COLLECTION.

**57.** All taxes, interest, penalties, costs and other amounts payable under this Act are debts due to His Majesty and recoverable as such in the Supreme Court or any other court of competent jurisdiction or in any other manner provided by this Act.

**58.—(1)** An amount payable under this Act that has not been paid or such part of an amount payable under this Act as has not been paid may, upon the expiration of thirty days after the default, be certified by the Provincial Treasurer.

(2) On production to the Supreme Court, a certificate made under this section shall be registered in the Court and when registered has 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 a debt of the amount specified in the certificate plus interest to the day of payment as provided for in this Act.

(3) All reasonable costs and charges attendant upon the registration of the certificate are recoverable in like manner as if they had been certified and the certificate had been registered under this section.

**59.—(1)** When the Provincial Treasurer has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a corporation liable to make a payment under this Act he may, by registered letter, require him to pay the moneys otherwise payable to that corporation in whole or in part to the Provincial Treasurer on account of the liability under this Act.

(2) The receipt of the Provincial Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

(3) Every person who has discharged any liability to a corporation liable to make a payment under this Act without complying with a requirement under this section is liable to pay to His Majesty an amount equal to the liability discharged or the amount which he was required under this section to pay to the Provincial Treasurer, whichever is the lesser.

**60.—(1)** Where a corporation has failed to make a payment as required by this Act, the Provincial Treasurer, on giving ten days' notice by registered mail addressed to its

last known place of residence, may whether or not there is an objection to or appeal in respect of the assessment not disposed of, issue a certificate of the failure and direct that the goods and chattels of the corporation in default be seized.

(2) Property seized under this section shall be kept for ten days at the cost and charges of the owner, and if it does not pay the amount due together with the costs and charges within the ten days, the property seized 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 property to be sold shall, a reasonable time before the goods are sold, be published at least once in one or more newspapers of general local circulation.

(4) Any surplus resulting from the sale after deduction of the amount owing and all costs and charges shall be paid or returned.

(5) Such goods and chattels of any corporation in default as would be exempt from seizure under a writ of execution issued out of the Supreme Court of the province are exempt from seizure under this section.

**61.** No action lies against any person for withholding or deducting any sum of money in compliance or intended compliance with this Act.

#### GENERAL.

**62.—(1)** Every corporation carrying on business and every corporation that is required, by or pursuant to this Act, to pay taxes or other amounts shall keep records and books of account (including an annual inventory kept in prescribed manner) at its place of business or residence in Canada or at such other place as may be designated by the Provincial Treasurer, in such form and containing such information as will enable the taxes payable under this Act or the taxes or other amounts that should have been deducted, withheld or collected to be determined.

(2) Where a corporation has failed to keep adequate records and books of account for the purposes of this Act, the Provincial Treasurer may require it to keep such records and books of account as he may specify and that corporation shall thereafter keep records and books of account as so required.

(3) Every corporation required by this section to keep records and books of account shall, until written permission for their disposal is obtained from the Provincial Treasurer, retain every such record or book of account and every account or voucher necessary to verify the information in any such record or book of account.



**63.**—(1) Any person thereunto authorized by the Provincial Treasurer for any purpose related to the administration or enforcement of this Act may, at all reasonable times, enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or records are, or should be, kept pursuant to this Act; and

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document which relates or may relate to the information that is or should be in the books or records or the amount of tax payable under this Act;
- (b) examine property described by an inventory or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act;
- (c) require the owner or manager of the property or business and any other person on the premises or place to give him all reasonable assistance with his audit or examination and to answer all proper questions relating to the audit or examination either orally or if he so requires, in writing, on oath or by statutory declaration and, for that purpose, require the owner or manager to attend at the premises or place with him; and
- (d) if, during the course of an audit or examination, it appears to him that there has been a violation of this Act or a regulation, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

(2) The Provincial Treasurer may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person,—

- (a) any information or additional information, including a return of income or a supplementary return; or
- (b) production, or production on oath, of any books, letters, accounts, invoices, statements (financial or otherwise) or other documents;

within such reasonable time as may be stipulated therein.

(3) The Provincial Treasurer may, for any purpose related to the administration or enforcement of this Act, with the approval of a judge of the Supreme or District Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing any officer of the Department of the Provincial Treasurer, together with such members of the Royal Canadian Mounted Police, the prov-

vincial police or other peace officers as he calls on to assist him and such other persons as may be named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things which may afford evidence as to the violation of any provision of this Act or a regulation and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

(4) The Provincial Treasurer may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Department of the Provincial Treasurer, to make such inquiry as he may deem necessary with reference to anything relating to the administration or enforcement of this Act.

(5) Where any book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced or any officer of the Department of the Provincial Treasurer may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Provincial Treasurer or a person thereunto authorized by the Provincial Treasurer to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if it had been proven in the ordinary way.

(6) No person shall hinder or molest or interfere with any person doing anything that he is authorized by or pursuant to this section to do or prevent or attempt to prevent any person doing, any such thing and, notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by or pursuant to this section to do.

(7) Every person thereunto authorized by the Provincial Treasurer may administer or receive an oath, affirmation or statutory declaration required to be given by or pursuant to this section.

(8) For the purpose of an inquiry authorized under subsection (4), the person authorized to make the inquiry has all the powers and authorities conferred on a commissioner by sections 4 and 5 of the *Inquiries Act* of the Dominion of Canada or which may be conferred on a commissioner under section 11 thereof.

**64.** Every person who has failed to make a return as and when required by regulation under section 56 is liable to a penalty of ten dollars a day for each day of default but not exceeding in all two thousand five hundred dollars.

**65.** A return, certificate or other document made by a corporation pursuant to this Act or a regulation shall be signed on its behalf by the President, Secretary or Treasurer

of the corporation or by any other officer or person thereunto duly authorized by the Board of Directors or other governing body of the corporation.

#### OFFENCES.

**66.**—(1) Every person who has failed to file a return as and when required by or under this Act or a regulation is guilty of an offence and, in addition to any penalty otherwise provided, liable on summary conviction to a fine of not less than twenty-five dollars for each day of default.

(2) Every person who has failed to comply with or contravened section 62 or section 63 is guilty of an offence and, in addition to any penalty otherwise provided is liable on summary conviction to,—

- (a) a fine of not less than two hundred dollars and not exceeding ten thousand dollars; or
- (b) both the fine described in paragraph (a) and imprisonment for a term not exceeding six months.

(3) Where a person has been convicted under this section of failing to comply with a provision of this Act or a regulation, he is not liable to pay a penalty imposed under section 38 or section 64 for the same failure unless he was assessed for that penalty or that penalty was demanded from him before the information or complaint giving rise to the conviction was laid or made.

**67.** Every person who has,—

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer filed or made as required by or under this Act or regulation;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a corporation;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission to enter a material particular, in records or books of account of a corporation;
- (d) wilfully, in any manner, evaded or attempted to evade, compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit an offence described by paragraphs (a) to (d);

is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to:

- (i) a fine of not less than twenty-five dollars and not exceeding ten thousand dollars plus, in an appropriate case, an amount not exceeding double the amount of the tax that should have been shown to be payable or that was sought to be evaded; or

- (ii) both the fine described in paragraph (i) and imprisonment for a term not exceeding two years.

**68.** Every person who, while employed in the service of His Majesty, has communicated or allowed to be communicated to a person not legally entitled thereto any information obtained under this Act or has allowed any such person to inspect or have access to any written statement furnished under this Act is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars.

**69.** Where 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 and is liable on conviction to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.

**70.** In any prosecution or proceeding under this Act the court has no power to impose less than the minimum fine or imprisonment fixed by this Act and the court has no power to suspend sentence.

#### PROCEDURE AND EVIDENCE.

**71.—(1)** An information or complaint under this Act may be laid or made by any officer of the Department of the Provincial Treasurer or by any person thereunto authorized by the Provincial Treasurer and, where an information or complaint purports to have been laid or made under this Act, it shall be deemed to have been laid or made by a person thereunto authorized by the Provincial Treasurer and shall not be called in question for lack of authority of the informant or complainant except by the Provincial Treasurer or by some person acting for him or His Majesty.

(2) An information or complaint in respect of an offence under 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.

(3) An information or complaint in respect of an offence under this Act may be heard, tried or determined by any police or stipendiary magistrate or any justice or justices of the peace if the accused is resident, carrying on business, 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.

(4) An information or complaint in respect of an offence under this Act may be laid or made on or before a day five years from the time when the matter of the information or

complaint arose or within one year from the day on which evidence, sufficient in the opinion of the Provincial Treasurer to justify a prosecution for the offence, came to his knowledge, and the Provincial Treasurer's certificate as to the day on which such evidence came to his knowledge is conclusive evidence thereof.

(5) Where, by this Act or a regulation, provision is made for sending by mail a request for information, notice or demand an affidavit of an officer of the Provincial Treasurer sworn before a commissioner or other person authorized to take affidavits setting out that he has charge of the appropriate records, that he has knowledge of the facts in the particular case, that such a request, notice or demand was sent by registered letter on a named day to the person to whom it was addressed (indicating such address) and that he identifies as exhibits attached to the affidavit the post office certificate of registration of the letter or a true copy of the relevant portion thereof and a true copy of the request, notice or demand, shall be received as *prima facie* evidence of the sending and of the request, notice or demand.

(6) Where, by this Act or a regulation, a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the corporation, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that after a careful examination and search of the records he has been unable to find in a given case that the return, statement, answer or certificate, as the case may be, has been made by such person shall be received as *prima facie* evidence that in such case that person did not make the return, statement, answer or certificate, as the case may be.

(7) Where, by this Act or regulation, a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Department of the Provincial Treasurer, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that after careful examination of such records he has found that the return, statement, answer or certificate was filed or made on a particular day, shall be received as *prima facie* evidence that it was filed or made on that day and not prior thereto.

(8) An affidavit of an officer of the Department of the Provincial Treasurer, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that a document annexed thereto is a document or true copy of a document made by or on behalf of the Provincial Treasurer or some person exercising the powers of the Provincial Treasurer or by or on behalf of a corporation, shall be received as *prima facie* evidence of the nature and contents of the document and shall be admissible in evidence and have the same probative force as the original document would have if it had been proven in the ordinary way.

(9) An affidavit of an officer of the Department of the Provincial Treasurer, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and has knowledge of the practice of the Department and that an examination of the records shows that a notice of assessment for a particular taxation year was mailed or otherwise communicated to a corporation on a particular day pursuant to this Act and that, after careful examination and search of the records, he has been unable to find that a notice of objection or of appeal from the assessment was received within the time allowed therefor, shall be received as *prima facie* evidence of the statements contained therein.

(10) Where evidence is offered under this section by an affidavit from which it appears that the person making the affidavit is an officer of the Department of the Provincial Treasurer, it is not necessary to prove his signature or that he is such an officer nor is it necessary to prove the signature or official character of the person before whom the affidavit was sworn.

(11) Judicial notice shall be taken of all orders or regulations made under this Act without such orders or regulations being specially pleaded or proven.

---

### PART III.

#### TAX EVASION.

**72.**—(1) In computing income for the purposes of this Act, no deduction may be made in respect of a disbursement or expense made or incurred in respect of a transaction or operation that, if allowed, would unduly or artificially reduce the income.

(2) Where the result of one or more sales, exchanges, declarations of trust, or other transactions of any kind whatsoever is that a person confers a benefit on a corporation, that person shall be deemed to have made a payment to the corporation equal to the amount of the benefit conferred notwithstanding the form or legal effect of the transactions or that one or more other persons were also parties thereto; and, whether or not there was an intention to avoid or evade taxes under this Act, the payment shall, depending upon the circumstances, be included in computing the corporation's income for the purpose of this Act.

(3) Where it is established that a sale, exchange or other transaction was entered into by persons dealing at arm's-length, *bona fide* and not pursuant to, or as part of, any other transaction and not to effect payment, in whole or in part of an existing or future obligation, no party thereto shall be regarded, for the purpose of this section, as having conferred a benefit on a party with whom he was so dealing.

**PART IV.**  
**INTERPRETATION.**

**73.**—(1) In this Act,—

- (a) “amount” means money, rights or things expressed in terms of the amount of money or the value in terms of money of the right or thing;
- (b) “annuity” includes an amount payable on a periodic basis whether payable at intervals longer or shorter than a year and whether payable under a contract, will or trust or otherwise;
- (c) “approved superannuation fund or plan” means an employees’ superannuation or pension fund or plan approved by the Provincial Treasurer in respect of its constitution and operations for the taxation year under consideration;
- (d) “assessment” includes a reassessment.
- (e) “business” includes a profession, calling, trade, manufacture or undertaking of any kind whatsoever and includes an adventure or concern in the nature of trade but does not include an office or employment;
- (f) “common share” is a share the holder of which is not precluded upon the reduction or redemption of the capital stock from participating in the assets of the corporation beyond the amount paid up thereon plus a fixed premium and a defined rate of dividend;
- (g) “corporation” includes an incorporated company;
- (h) “country other than Canada” includes any of His Majesty’s self-governing dominions or dependencies;
- (i) “dividend” includes stock dividend;
- (j) “estate” means the trustee or the executors, administrator, heir or other legal representative having ownership or control of the property;
- (k) “exempt income” means money, rights or things received or acquired by a corporation in such circumstances that they are, by reason of any provision of this Act, not included in computing its income and includes amounts deductible under section 21;
- (l) “fiscal period” means the period for which the accounts of the business of the corporation have been ordinarily made up and accepted for purposes of assessment under this Act and, in the absence of an established practice, the fiscal period is that adopted by the corporation: provided that a fiscal period may not exceed a period of twelve months and that a change in a usual and accepted fiscal period may not be made for the purpose of this Act without the concurrence of the Provincial Treasurer;
- (m) “foreign business corporation” means a corporation defined by section 47 to be a foreign business corporation;
- (n) “income bond” or “income debenture” means a bond or debenture in respect of which interest or

dividends are payable only when the debtor company has made a profit before taking into account the interest of dividend obligation;

- (o) "investment company" means a corporation defined by section 45 to be an investment company;
- (p) "inventory" means a description of property the value of which is relevant in computing a corporation's income from a business for a taxation year;
- (q) "loss" means a loss computed by applying the provisions of this Act respecting computation of income from a business *mutatis mutandis* (but not including in the computation a dividend or part of a dividend the amount whereof would be deductible under section 22 or 23 in computing taxable income) minus any amount by which a loss operated to reduce the corporation's income from other sources for purpose of income tax for the year in which it was sustained;
- (r) "non-resident" means not resident in Canada;
- (s) "non-resident-owned investment corporation" means a corporation defined by section 46 to be a non-resident-owned investment corporation;
- (t) "person" or any word or expression descriptive of a person includes any body corporate and politic, and the heirs, executors, administrators or other legal representatives of such person, according to the law of that part of Canada to which the context extends;
- (u) "personal corporation" means a corporation defined by section 44 to be a personal corporation;
- (v) "prescribed" in the case of a form or the information to be given on a form, means prescribed by order of the Provincial Treasurer, and, in any other case, means prescribed by regulation;
- (w) "property" means property of any kind whatsoever whether real or personal or corporeal or incorporeal and, without restricting the generality of the foregoing, includes a right of any kind whatsoever, a share or a *chose in action*;
- (x) "regulation" means a regulation made by the Lieutenant Governor in Council under this Act;
- (y) "share" means a share of capital stock of a corporation;
- (z) "shareholder" includes a member or other person entitled to receive payment of a dividend;
- (aa) "subsidiary wholly-owned corporation" means a corporation all the share capital of which (except directors' qualifying shares) belongs to the corporation to which it is subsidiary and "subsidiary controlled corporation" means a corporation more than fifty per cent of the share capital of which (having full voting rights under all circumstances) belongs to the corporation to which it is subsidiary;



- (ab) "taxable income" has the meaning given that expression by subsection (3) of section 2;
  - (ac) "taxpayer" includes any person whether or not liable to pay tax;
  - (ad) "trust" has the meaning given "estate" by this section;
  - (ae) a corporation's income from a business, property or other source of income or from sources in a particular place means the corporation's income computed in accordance with this Act on the assumption that it had during the taxation year no income except from that source or those sources of income and was entitled to no deductions except those related to that source or those sources; and
  - (af) the tax payable by a corporation under this Act means the tax payable by it as fixed by assessment or reassessment subject to variation or objection or appeal, if any, in accordance with the provisions of this Act.
- (2) For the purposes of this Act, the "taxation year" denoted by reference to any year is the fiscal period or periods ending in that year.
- (3) For the purposes of this Act,—
- (a) a corporation and a person or one of several persons by whom it is directly or indirectly controlled;
  - (b) corporations controlled directly or indirectly by the same person,
- shall, without extending the meaning of the expression "to deal with each other at arms-length", be deemed not to deal with each other at arms-length.

---

## PART V.

### TRANSITIONAL PROVISIONS.

**74—**(1) A reference in this Act or regulation to this Act or any provision thereof shall be construed, as regards any transaction, matter or thing in a year to which *The Alberta Corporation Income Tax Act* was applicable, to include a reference to the provisions of *The Alberta Corporation Income Tax Act* relating to the same subject matter.

(2) A reference in this Act to income shall be construed, as regards a period to which *The Alberta Corporation Income Tax Act* was applicable, to include a reference to income as defined for the purpose of that Act subject to the deductions from income permitted by that Act except those corresponding to the deductions permitted by Division C of Part I of this Act and a reference to taxable income in this Act shall be construed, as regards such a period, to include a reference to income as so defined subject to all the deductions from income permitted by *The Alberta Corporation Income Tax Act*.

**75.**—(1) A taxpayer may deduct from the tax otherwise payable under this Act for a taxation year, such amount as would, if *The Alberta Corporation Income Tax Act* were applicable to the taxation year, be deductible from tax by virtue of subsections (4) to (11) inclusive of section 8 thereof.

(2) There may be deducted in computing income for a taxation year under this Act, an amount that would be deductible under paragraphs (i) to (p) inclusive of subsection (1) of section 5 of *The Alberta Corporation Income Tax Act* from income as defined by *The Alberta Corporation Income Tax Act* if that Act were applicable to the taxation year.

(3) There may be deducted from the tax for a taxation year otherwise payable under this Act an amount that would be deductible under subsection (2) of section 8 of *The Alberta Corporation Income Tax Act* if *The Alberta Corporation Income Tax Act* were applicable to the taxation year.

(4) Where there is a reference in this Act to any act, matter or thing done or existing before a taxation year, it shall be deemed to include a reference to the act, matter or thing, even though it was done or existing before the commencement of this Act.

(5) For the purpose of computing a taxpayer's income for the 1949 taxation year, the amount outstanding on the taxpayer's books as a reserve for bad debts at the end of the 1948 taxation year, except such part thereof, if any, as the taxpayer establishes cannot reasonably be included therein, shall, for the purpose of paragraph (d) of section 5 of this Act, be deemed to be the amount deducted as a reserve for doubtful debts in computing his income for the 1948 taxation year.

(6) Where a part of an expenditure made in a taxation year to which this Act is applicable is, by virtue of paragraph (v) of subsection (1) of section 5 of the *Income War Tax Act (Canada)* deductible from income as defined by that Act for a taxation year to which that Act is applicable, there shall not be deducted in computing income under this Act for the taxation year in which the expenditures were made, an amount in respect of maintenance and repairs or underground development exceeding the expenditures made with reference thereto in that taxation year minus the amount so deducted in a previous year or years in respect thereof under the said paragraph (v).

(7) Where, upon the application of a method adopted by a corporation for computing its income from a business or property for a taxation year to which this Act is applicable, an amount received in the year would not be included in computing its income for the year because on the application of that method it would have been included in computing its income for the purposes of this Act or *The Alberta Corporation Income Tax Act* for a previous year in respect of which

it was receivable, if the amount was not included in computing the income for the previous year, it shall be included in computing the income for the year in which it was received.

(8) Section 63, and section 71 except subsection (4) thereof, are applicable *mutatis mutandis* in respect of matters arising under *The Alberta Corporation Income Tax Act*.

**76.** The provisions of *The Alberta Corporation Income Tax Act* are not applicable to taxation years after the 1948 taxation year.

**77.** The provisions of this Act are, unless otherwise specifically provided, applicable to the 1949 and subsequent taxation years.

**78.** If the Government of Canada requests Alberta and all the other Provinces with which the Government of Canada has entered into agreements providing for the suspension by the Provinces of the levying and collection of income tax on individuals, succession duties and certain corporation taxes to repeal, suspend or nullify the legislation imposing an income tax on the income of corporations enacted by Alberta and the said other Provinces under the agreements, the Lieutenant Governor in Council by order may repeal or suspend this Act or any of its provisions for any portion of the period commencing on the first day of January, 1947, and ending on the thirty-first day of December, 1951.

**79.** 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 on and after the first day of January, 1949.

**80.** This Act shall expire on the first day of January, 1952.

---

## 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 taxation 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;

- (f) the income to be attributed to the operations in Alberta of a corporation whose principal business is the operating of grain elevators shall be an amount, the ratio of which to the income of the corporation is equal to the average of the following:
  - (i) the number of bushels of grain received during the taxation year in the elevators operated by the corporation in Alberta divided by the number of bushels of grain received during the taxation year in all the elevators operated by the corporation; and
  - (ii) the amount of the salaries and wages paid by the corporation to the personnel of the permanent establishment in Alberta divided by the total salaries and wages paid by the corporation.

#### 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.

---

## SECOND SCHEDULE

---

### FORM A.

#### *Notice of Appeal to Provincial Treasurer.*

In re The Alberta Corporation Income Tax Act, 1949,  
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, 1949,  
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 .....

No. 89

---

FIRST SESSION  
**ELEVENTH LEGISLATURE**  
13 GEORGE VI  
1949

---

**BILL**  
An Act Respecting Corporation  
Income Taxes.

---

Received and read the

First time .....

Second time .....

Third time.....

---

HON. MR. MANNING.

---