

Bill No. 114 of 1949.

A BILL TO AMEND THE ALBERTA CORPORATION
INCOME TAX ACT.

NOTE.

This Bill amends *The Alberta Corporation Income Tax Act*, being chapter 3 of the Statutes of Alberta, 1947.

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 Alberta Corporation Income Tax 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. The amendments to this Act contained in this Bill are also being introduced at the request of the Dominion and similar amendments have been or will be introduced in the Legislatures of all the Provinces which have completed tax agreements.

The amendments contained in this Bill are parallel to changes made in the Dominion Act adopted at the 1948 session of the Parliament of Canada. The amendments when passed will bring the Alberta statute into conformity with the Dominion statute for the 1948 taxation year.

Section 4 (*n*) (iii) is struck out and a new clause (iii) is substituted. Clause (iii) of paragraph (*n*) which deals with co-operatives is amended so that clause (iii) only requires ninety per cent of the members of the co-operative to be individuals rather than all of its members as is presently required.

Section 5 is amended as to subsection (1) by striking out paragraph (*i*) and by adding in its stead eight new paragraphs (*i*) to (*p*) inclusive. The new paragraph (*i*) is applicable to both the 1947 and 1948 taxation years and paragraphs (*j*) to (*p*) inclusive are all applicable to the 1948 taxation year.

Section 5 (2) (*c*) is struck out and a new paragraph (*c*) substituted which is applicable to both the 1947 and 1948 taxation years.

Section 8 is amended by the addition of two new subsections both of which are applicable to the 1948 taxation year.

Section 40 is amended to increase the rate of interest payable in respect of overdue taxes from four per cent to six

per cent per year. This is applicable to the 1948 taxation year. A new subsection (7) is added to section 40 which is also applicable to the 1948 taxation year.

Section 43 is amended by the addition of a new subsection (3).

Section 61 is amended by striking out the present subsection (4) and substituting a new subsection.

New sections 66 and 67 are added at the end of the Act. They provide that this Act is applicable to taxation years up to and including the 1948 taxation year. The provisions of *The Alberta Corporation Income Tax Act, 1949*, will be applicable to the 1949 and subsequent taxation years.

A new paragraph (f) is added to section 4 of the First Schedule dealing with grain companies. The First Schedule sets out the method of determining the portion of the income of a corporation properly attributable to its operations in Alberta. The new paragraph (f) prescribes rules for the purpose of determining the income of grain corporations attributable to their operations in Alberta. Paragraph (f) is applicable to the 1947 and subsequent taxation years.

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. 114 of 1949.

An Act to amend The Alberta Corporation Income Tax Act.

(Assented to _____, 1949.)

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

1. *The Alberta Corporation Income Tax Act*, being chapter 3 of the Statutes of Alberta, 1947, is hereby amended as to section 4 by striking out clause (iii) of paragraph (n) and by substituting the following:

“(iii) 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;”.

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

(a) by striking out paragraph (i) of subsection (1) and by substituting the following:

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

(b) by adding immediately after paragraph (i) of subsection (1) the following new paragraphs:

“(j) An amount equal to the aggregate of the drilling and exploration costs expended during the taxation year, including all general geological and geophysical expenses incurred directly or indirectly by a corporation whose principal business is the production, refining or marketing of petroleum or petroleum products on oil wells spudded in or the deepening of which commenced in 1948 and which wells are abandoned within six months after the completion of the drilling;

“(k) An amount equal to the exploration and drilling expenses incurred during the year 1948 by a

corporation formed for the purpose of exploring and drilling for oil, provided that, if the deduction permitted under this paragraph exceeds the income of the year of expenditure, such amount may be deducted from income of subsequent years;

- “(l) Exploration and drilling expenses incurred during the year 1948 by a corporation formed for the purpose of exploring and drilling for natural gas;
- “(m) An amount equal to all prospecting, exploration and development expenses incurred in searching for minerals during the year 1948 by a corporation whose chief business is that of mining or exploring for minerals, 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 expenditures for such purposes;
- “(n) All expenditures during the taxation year, other than geological and geophysical expenditures, made by a corporation whose principal business is the production, refining or marketing of petroleum or drilling for petroleum, in connection with,—
 - “(i) the testing of a significant geological structure by a deep test oil well that was spudded in during 1948 and that proved unproductive; or
 - “(ii) the testing of a significant stratigraphic trap by a group of test wells that were spudded in between the first day of January, 1947, and the thirty-first day of December, 1948, inclusive, 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,—
 - “(iii) drilling the deep test well or group of test wells was desirable in order to extend the petroleum resources of Canada; and
 - “(iv) 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 from income as provided in this clause, provided that the consent of the Lieutenant Governor in Council is obtained to the deduction provided for in this clause;
- “(o) Where a corporation whose principal business is production, refining or marketing of petro-

leum 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 paragraph (n) of this subsection, the Provincial Treasurer may direct that it shall, to the extent of that payment, be deemed for the purposes of paragraph (n) of this subsection to have itself made the expenditure and, in any such case, no deduction may be made by reason of paragraph (n) of this subsection by the corporation that made the expenditure;

“(p) Where a corporation has incurred expenditures the deduction of which from income is authorized under both paragraphs (j) and (n) of this subsection, it shall not be entitled to make a deduction under both paragraphs but is entitled to elect to deduct the expenditures under either paragraph.”;

(c) by striking out paragraph (c) of subsection (2) and by substituting the following:

“(c) credited to the account of the policyholder on terms that he is entitled to or may obtain payment thereof on or before termination of the policy.”.

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

(a) by adding immediately after subsection (1) the following new subsection:

“(2) 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 tax under this Act, payable by it in respect of 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 1948 and that proved unproductive; or

“(b) the testing of a significant stratigraphic trap by a group of test wells that were spudded in between the first day of January, 1947, and the thirty-first day of December, 1948, inclusive, 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 paragraph.”;
 - (b) by renumbering the present subsection (2) as subsection (3);
 - (c) by adding immediately after subsection (2), now renumbered as subsection (3), the following new subsection:
 - “(4) 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 there-to, either by way of subscription of capital or otherwise that is expended as described by subsection (2) of this section, the Provincial Treasurer may direct that it shall, to the extent of that payment, be deemed for the purposes of subsection (2) of this section to have itself made the expenditure and, in any such case, no deduction may be made by reason of subsection (2) of this section by the corporation that made the expenditure.”;
 - (d) by renumbering the present subsections (3) to (9) inclusive, as subsections (5) to (11).
4. The said Act is further amended as to section 40,—
- (a) by striking out the words “four per cent per annum”, wherever they occur in subsections (1) and (4), and by substituting the words “six per cent per annum”;
 - (b) by adding immediately after subsection (6) the following new subsection:
 - “(7) Every corporation required to pay tax on the instalment basis, as provided in subsection (1), that pays less on any instalment date than the required instalment shall pay interest at six per cent per annum upon any deficiency until paid and, for the purpose of this subsection, the deficiency shall be the amount by which the amount paid is less than the required instalment mentioned in the said subsection when calculated for the taxation year on either,—
 - “(a) the income of the preceding year; or
 - “(b) the income of the taxation year; whichever is the lesser.”.

5. The said Act is further amended as to section 43 by adding immediately after subsection (2) the following new subsection:

“(3) Where an amount in respect of an overpayment of tax for the 1948 taxation year or a subsequent taxation year is refunded or applied on other liability of a taxpayer under this section or section 46 of this Act, 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 delivered; or

“(c) on the day that the return of income was delivered; whichever was later, and ending with the day of refunding or application aforesaid, on the return 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 interest so calculated is less than one dollar, in which case no interest is payable under this subsection.”.

6. The said Act is further amended as to section 61 by striking out subsection (4) and by substituting the following:

“(4) Any information or complaint in respect of an offence under this section may be laid or made within five years from the time when the matter of the information or complaint arose 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 of the day on which such evidence came to his knowledge is conclusive evidence thereof.”.

7. The said Act is further amended by adding immediately after section 65 the following new sections:

“66. The provisions of this Act are not applicable to taxation years after the 1948 taxation year.

“67. The provisions of *The Alberta Corporation Income Tax Act, 1949*, unless otherwise specifically provided are applicable to the 1949 and subsequent taxation years.”.

8. The said Act is further amended as to the First Schedule by adding immediately after paragraph (e) of section 4 the following new paragraph:

“(f) the income to be attributed to the operation 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.”.

9. This Act shall come into force on the day upon which it is assented to and upon so coming into force,—

- (a) paragraph (a) and paragraph (c) of section 2 and section 8 shall be deemed to have been in force at all times on and after the first day of January, 1947;
- (b) section 1, paragraph (b) of section 2 and sections 3, 4, 5, 6 and 7, shall be deemed to have been in force at all times on and after the first day of January, 1948.

No. 114

FIRST SESSION
ELEVENTH LEGISLATURE
13 GEORGE VI
1949

BILL

An Act to amend The Alberta Corporation Income Tax Act.

Received and read the

First time

Second time

Third time

HON. MR. MANNING.
