

Bill No. 43 of 1952.

A BILL TO AMEND THE ALBERTA CORPORATION
INCOME TAX ACT, 1949.

NOTE.

This Bill amends *The Alberta Corporation Income Tax Act, 1949*, being chapter 6 of the Statutes of Alberta, 1949.

The provisions of the above Act are applicable to the 1949 and subsequent taxation years for the duration of the Dominion-Provincial tax agreement. Under the agreement this Act and the corresponding Dominion Act are being jointly administered. The changes contained in this Bill are based on corresponding changes made to the Dominion Act and are designed to maintain uniformity between the Dominion and the Provincial legislation relating to this subject.

A new section 8 is added immediately after section 7. This new section deals with certain reserves which are to be included in computing the income of a bank. Section 8 is applicable to the 1949 and subsequent taxation years.

Section 10 which deals with deductions allowed in computing income is amended. A new clause (*ca*) is added to subsection (1) and the present clause (*f*) of subsection (1) is struck out and a new clause (*f*) substituted in its stead. Two new subsections are also added. Subsection (5) provides that one-half the fees paid to an investment counsel may be deducted from the corporation's income. The new subsection (6) defines the term "investment counsel". Subsections (5) and (6) are applicable to the 1949 and subsequent taxation years and subject to this the section is applicable to the 1951 and subsequent taxation years.

A new subsection (4*b*) is added to section 11 which deals with deductions allowed to corporations in petroleum or natural gas business.

Two new subsections are added to section 13. The new subsection (3) deals with the case where the chief source of income is not farming. The new subsection (4) defines the term "farming loss" for the purposes of subsection (3). This section is applicable to the 1949 and subsequent taxation years.

Section 18 is amended by the addition of a new subsection. This section deals with interest on overdue loans and the new subsection provides that subsection (1) shall not apply in certain cases. This section is applicable to the 1951 and subsequent taxation years.

Section 22 which deals with dividends from exempted corporations is amended by striking out clause (d) of subsection (1) and by substituting a new clause. The new clause (d) is applicable to the 1951 and subsequent taxation years.

Section 26, subsection (1) which deals with averaging for farmers and fishermen is amended.

Section 28 which deals with deductions of oil companies for testing or for deep test wells is amended by the addition of a new subsection (3).

A new subsection (4a), applicable to the 1950 and subsequent taxation years, is added to section 32 relating to rules of assessment.

Section 34 is amended by striking out subsection (2) and by substituting a new subsection. This section is applicable to the 1951 and subsequent taxation years.

Section 37 which provides for the payment of interest on unpaid taxes is amended by striking out subsection (3) and substituting a new subsection (3). This section is applicable to the 1951 and subsequent taxation years.

Section 39 dealing with refunds of overpayments is amended by striking out subsections (1) and (3) and by substituting new subsections in their stead. These amendments apply in respect of applications for refunds made after the 1st of May, 1951. The new subsection (1) of section 39 is applicable *mutatis mutandis* to applications for refunds made under *The Alberta Corporation Income Tax Act* after the 1st of May, 1951, and the new subsection (3) applies in respect of overpayments of tax for the 1950 and subsequent taxation years.

Section 43 which deals with exemptions for personal corporations is amended by striking clause (cb) of subsection (1), clause (b) of subsection (3) and substituting new clauses in their stead and by adding a new subsection (4). This section is applicable to the 1950 and subsequent taxation years.

Section 47 relating to foreign business corporations is amended by adding a new subsection (4). This section is applicable to the 1949 and subsequent taxation years.

*Section 54 is amended by striking out subsection (1) and by substituting a new subsection in its stead. The effect of the amendment is that consolidated returns must be filed before December 1st, 1951. Two new subsections are also added to section 54. The new subsections (12) and (13) apply to the 1952 and subsequent taxation years.

Section 59 dealing with garnishment is amended by striking out subsection (1) and substituting a new subsection in its stead.

Subsection (1) of section 71 is struck out and replaced by a new subsection (1) dealing with the laying of an information or a complaint.

Section 73 which is the interpretation section for Part IV of the Act is amended by striking out clause (aa) and by substituting a new clause (aa) defining the terms "subsidiary wholly-owned corporation" and "subsidiary controlled corporation". This section is applicable to the 1949 and subsequent taxation years.

Two new subsections (3) and (4) are added to section 74 relating to references to *The Alberta Corporation Income Tax Act* and *The Alberta Corporation Income Tax Act, 1949*. This amendment is retroactive to the 30th of June, 1948.

Section 80 is amended. This amendment is for the purpose of curing a defect in form. The amendment has the effect of making the Act applicable to the 1951 portion of taxation years ending in 1952 and provides for the continuation of the Act after January 1st of 1952 for all purposes, including the collection of outstanding tax arrears.

Except where special provision has been made as to the coming into force of the amendments contained in this Bill they come into force upon assent.

J. W. RYAN,
Acting Legislative Counsel.

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

BILL

No. 43 of 1952.

An Act to amend The Alberta Corporation Income Tax Act,
1949.

(Assented to _____, 1952.)

HER 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, 1949*, being
chapter 6 of the Statutes of Alberta, 1949, is hereby
amended.

2. (1) The following new section 8 is added immediately New
section 8
after section 7:

"8. There shall be included, in computing the income for Certain
reserves
included in
computing
income
a taxation year of a bank to which *'The Bank Act'* or *'Quebec
Savings Bank Act'* applies, the amount by which the aggregate of the amounts that, at the end of the year, are set
aside or reserved by way of write-down of the value of
assets or appropriation to contingency reserves or conting-
ent accounts 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, is, in the opinion
of the Provincial Treasurer, having regard to all the circum-
stances, in excess of the reasonable requirements of the
bank."

(2) This section is applicable to the 1949 and subsequent Application
taxation years.

3. (1) Section 10 is amended,—

Section 10
amended

(a) by adding immediately after clause (c) of subsec-
tion (1) the following new clause:

"(ca) such part of a payment,

"(i) repaying borrowed money used for the purpose Deductions
allowed
of earning income from a business or property
(other than property the income from which
would be exempt), or

"(ii) for property acquired for the purpose of gain-
ing or producing income therefrom or for the
purpose of gaining or producing income from a
business (other than property the income from
which would be exempt),

made by the corporation in the year as is by section
6 required to be included in computing the re-
cipient's income for a taxation year;"

- (b) by striking out clause (f) of subsection (1) and by substituting the following:
- Employer's contribution to pension funds “(f) an amount not exceeding nine hundred dollars paid by the corporation in the year or within sixty days from the end of the year 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;”;
- (c) by adding immediately after subsection (4) the following new subsections:
- One-half fees paid to investment counsel “(5) Notwithstanding clauses (a) and (b) of subsection (1) of section 12, there may be deducted, in computing a corporation's income from shares or securities for a taxation year, one-half the fees paid by it in the year to an investment counsel for advice as to the advisability of purchasing or selling specific shares or securities.
- “investment counsel” “(6) For the purpose of subsection (5), ‘investment counsel’ means a person whose principal business is advising others as to the advisability of purchasing or selling specific shares or securities.”.
- Application (2) Subsections (5) and (6) of section 10, as enacted by clause (c) of this section, are applicable to the 1949 and subsequent taxation years and, subject thereto, this section is applicable to the 1951 and subsequent taxation years.
- Section 11 amended 4. Section 11 is amended by adding immediately after subsection (4a) the following new subsection:
- “ (4b) Subsection (4) is applicable *mutatis mutandis*, in respect of expenditures made in connection with,—
- “ (a) the testing of a significant geological structure by a deep test oil well that was spudded in during, or the deepening of which was commenced in, 1952 and that proved unproductive; or
- “ (b) the testing of a significant stratigraphic trap by a group of test wells that were spudded in during 1952 and drilled to an aggregate depth of twenty-five thousand feet and all of which wells proved unproductive.”.
- Section 13 amended 5. (1) Section 13 is amended by adding immediately after subsection (2) the following new subsections:
- If chief source of income not farming, etc. “ (3) Where a corporation's chief source of income for a taxation year is neither farming nor a combination of farming and some other source of income, its income for the year shall be deemed to be not less than its income from all sources other than farming (after application of the rule in subsection (1) minus the lesser of,—
- “ (a) one-half its farming loss for the year; or
- “ (b) five thousand dollars.

“(4) For the purpose of subsection (3), a ‘farming loss’ is a loss from farming computed by applying the provisions of this Act respecting computation of income from a business *mutatis mutandis* except that no deduction may be made under clause (a) of subsection (1) of section 10.”.

(2) This section is applicable to the 1949 and subsequent taxation years. Application

6. (1) Section 18 is amended,—

Section 18
amended

(a) by renumbering the section as subsection (1);

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

“(2) Subsection (1) does not apply if the loan was made to a subsidiary controlled corporation and it is established that the money that was loaned was used in the subsidiary corporation’s business for the purpose of gaining or producing income.”.

When
subsection
(1) not
applicable

(2) This section is applicable to the 1951 and subsequent taxation years. Application

7. Section 22, subsection (1) is amended by striking out clause (d) and by substituting the following: Section 22
amended

“(d) was a non-resident corporation more than twenty-five per cent of the issued share capital of which (having full voting rights under all circumstances) belonged to the receiving corporation;”.

(2) Subsection (1) is applicable to the 1951 and subsequent taxation years. Application

8. Section 26 is amended by striking out all that portion of subsection (1) preceding clause (a) and by substituting the following: Section 26
amended

“26. (1) Where a corporation’s chief source of income has been farming or fishing during a taxation year (in this section referred to as the ‘year of averaging’) and the four immediately preceding years (in this section referred to as the ‘preceding years’) and the corporation has filed returns of income for the preceding years as required by this Act, if the corporation, on or before the day on or before which it was required to file its return of income for the year of averaging, files with the Provincial Treasurer an election in prescribed form, the tax payable under this Act for the year of averaging is an amount determined by the following rules,—”.

Averaging
for farmers
and
fishermen

9. Section 28 is amended by adding immediately after subsection (2) the following new subsection: Section 28
amended

“(3) Subsection (1) is applicable *mutatis mutandis*, in respect of expenditures made in connection with,—

“(a) the testing of a significant geological structure by a deep test oil well that was spudded in during, or the deepening of which was commenced in, 1952 and that proved unproductive; or

“(b) the testing of a significant stratigraphic trap by a group of test wells that were spudded in during 1952 and drilled to an aggregate depth of twenty-five thousand feet and all of which wells proved unproductive.”.

Section 32 amended **10.** (1) Section 32 is amended by adding immediately after subsection (4) the following new subsection:

Rules of assessment “(4a) Where a corporation has filed the return of income required by section 30 for a taxation year and, within one year from the day on or before which it was required by section 30 to file the return for that year, has filed an amended return for the year claiming a deduction from income under clause (b) of section 21 in respect of a business loss sustained in the taxation year immediately following that year, the Provincial Treasurer shall re-assess the corporation's tax for the year.”.

Application (2) This section is applicable to the 1950 and subsequent taxation years.

Section 34 amended **11.** (1) Section 34 is amended by striking out subsection (2) and by substituting the following:

Special case “(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 taxable income for the year is estimated by it to be not more than ten thousand dollars, it may, instead of paying the instalments required by subsection (1), pay to the Provincial Treasurer, at the end of the twelve months' period referred to in subsection (1), the whole of the tax as estimated under section 31.”.

Application (2) This section is applicable to the 1951 and subsequent taxation years.

Section 37 amended **12.** (1) Section 37 is amended by striking out subsection (3) and by substituting the following:

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

Application (2) This section is applicable to the 1951 and subsequent taxation years.

Section 39 amended **13.** (1) Section 39 is amended,—

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

Refund of over-payment “**39.** (1) If the return of a corporation's income for a taxation year has been made within two years from the end of the year, the Provincial Treasurer,—

- “(a) may, upon mailing the notice of assessment for the year, refund, without application therefor, any overpayment made on account of the tax; and
- “(b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within twelve months from the day on which the overpayment was made or the day on which the notice of assessment was sent.”;
- (b) by striking out subsection (3) and by substituting the following:
- “(3) Where an amount in respect of an overpayment is refunded, or applied under this section on other liability, interest at the rate of two per cent per annum shall be paid or applied thereon for the period commencing with the latest of,—
- “(a) the day when the overpayment arose;
- “(b) 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) the day when the return of income was actually filed;
- and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than one dollar, in which event no interest shall be paid or applied under this subsection.”.
- (2) Subsection (1) is applicable in respect of applications for refunds made after the first day of May, 1951. Application
- (3) Subsection (1) of section 39 of *The Alberta Corporation Income Tax Act, 1949*, as enacted by clause (a) of subsection (1) is applicable *mutatis mutandis* to applications for refunds made under *The Alberta Corporation Income Tax Act*, after the first day of May, 1951. Idem
- (4) Clause (b) of subsection (1) is applicable in respect of overpayments of tax for the 1950 and subsequent taxation years. Idem
- 14.** (1) Section 43 is amended,— Section 43 amended
- (a) by striking out clause (cb) of subsection (1) and by substituting the following:
- “(cb) a corporation that was constituted exclusively for charitable purposes, no part of whose income was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof, that has not since June 1, 1950, acquired control of any other corporation and that, during the period,— Non-profit corporations
- “(i) did not carry on any business;

“(ii) had no debts incurred since June 1, 1950, other than obligations arising in respect of salaries, rents and other current expenses; and

“(iii) except in the case of a corporation that was, before January 1, 1940, constituted exclusively for charitable purposes, expended amounts each of which is,—

“(A) an expenditure in respect of charitable activities carried on by the corporation itself;

“(B) a gift to an organization in Canada the income of which for the period is exempt from tax under this Part by virtue of clause (ca); or

“(C) a gift to a corporation resident in Canada the income of which for the period is exempt from tax under this Part by virtue of this clause; and

the aggregate of which is not less than ninety per cent of the corporation's income for the period;”;

(b) by striking out clause (b) of subsection (3) and by substituting the following:

“(b) there shall be included in computing a corporation's or trust's income all gifts received by the corporation or trust other than,—

Gifts

“(i) a gift received subject to a trust or direction that the property given, or property substituted therefor, is to be held permanently by the corporation or trust for the purpose of gaining or producing income therefrom; or

“(ii) a gift or a portion of a gift in respect of which it is established that the donor has not been allowed a deduction under clause (a) of section 21 or a gift made by a person who was not taxable under section 2 for the taxation year in which the gift was made”;

(c) by adding immediately after subsection (3) the following new subsection:

“(4) In computing the income of a corporation for the purpose of determining whether it is described by clause (cb) of subsection (1) for a taxation year,—

“(a) there may be deducted an amount not exceeding its income for the year preceding the taxation year computed without including or deducting any amount under this subsection; and

“(b) there shall be included any amount that has been deducted under this subsection for the immediately preceding taxation year.”.

(2) This section is applicable to the 1950 and subsequent Application taxation years.

15. (1) Section 47 is amended by adding immediately Section 47 after subsection (3) the following new subsection: amended

“(4) Where a corporation would have complied, during the whole of a taxation year, with the condition contained in subclause (i) of clause (c) of subsection (2) were it not that its business operations during the taxation year were carried on in part in Canada through ownership of shares in or control of one or more subsidiary or affiliated corporations, the corporation shall be deemed to have complied with that condition if, during the whole of the taxation year,—

“(a) the business operations so carried on in Canada were of a mining nature; and

“(b) its main 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 outside Canada.”.

(2) This section is applicable to the 1949 and subsequent Application taxation years.

16. (1) Section 54 is amended,—

Section 54
amended

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

“**54.** (1) A corporation that is resident in Canada may elect in respect of taxation years ending on or before December 31, 1951, 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.”;

Right to
file
consolidated
return

(b) by adding immediately after subsection (11) the following new subsections:

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

“(13) Where a loss sustained by a corporation in Idem a taxation year has been included in computing the consolidated loss under this section, the amount thereof shall, for the purposes of clause (b) of section 21 be deemed to have been deducted under

that clause in the year in which it was so included to the extent that it may reasonably be regarded as having operated to reduce the consolidated taxable income for that or another year.”.

Application (2) Subsections (12) and (13) of section 54 as enacted by clause (b) of this section are applicable to the 1952 and subsequent taxation years.

Section 59 amended **17.** Section 59 is amended by striking out subsection (1) and by substituting the following:

Garnishment **“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 or by a letter served personally, 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.”.

Section 71 amended **18.** Section 71 is amended by striking out subsection (1) and by substituting the following:

Information or complaint **“71. (1)** An information or complaint under this Act may be laid or made by any officer of the Department of the Provincial Treasurer, by a member of the Royal Canadian Mounted Police 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.”.

Section 73 amended **19. (1)** Section 73, subsection (1) is amended by striking out clause (aa) and by substituting the following:

“subsidiary wholly-owned corporation” **“(aa)** ‘subsidiary wholly-owned corporation’ means a corporation all the issued 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 issued share capital of which (having full voting rights under all circumstances) belongs to the corporation to which it is subsidiary;”.

Application (2) This section is applicable to the 1949 and subsequent taxation years.

Section 74 amended **20. (1)** Section 74 is amended by adding immediately after subsection (2) the following new subsections:

“(3) A reference in any other statute or in any rule, order or regulation made under any other statute to *The Alberta Corporation Income Tax Act*, shall, as regards any transaction, matter or thing in a period to which this Act is applicable, be construed to be a reference to this Act.

References
to *The
Alberta
Corporation
Income Tax
Act*,
references
to this Act

“(4) A reference in any other statute or in any rule, order or regulation made under any other statute to any provision in *The Alberta Corporation Income Tax Act*, shall, as regards any transaction, matter or thing in a period to which this Act is applicable, be construed to be,—

“(a) if there is a provision in this Act relating to the same subject-matter, a reference to that provision; and

“(b) in any other case, a reference to the provision in *The Alberta Corporation Income Tax Act*, referred to.”.

(2) This section shall be deemed to have come into force on January 1, 1949.

Coming
into force

21. (1) Section 80 is struck out and the following is substituted:

Section 80
amended

“**80.** This Act is not applicable to a taxation year ending after the thirtieth day of December, 1952.”.

Expiration
of Act

(2) The said Act shall be deemed not have expired on the first day of January, 1952, and shall be deemed to continue in force and to have continued in force at all times subsequent to the thirty-first day of December, 1951.

22. This Act shall come into force on the day upon which it is assented to.

Coming
into force

No. 43.

FIFTH SESSION
ELEVENTH LEGISLATURE

1 Elizabeth II

1952

BILL

An Act to amend The Alberta
Corporation Income
Tax Act, 1949.

Received and read the

First time

Second time.....

Third time.....

HON. MR. MANNING.
