

Bill No. 104 of 1953

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

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NOTE

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

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 corresponding Dominion Act and are designed to maintain uniformity between the Dominion and Provincial legislation relating to this subject.

Subsection (2) of section 7, which relates to loans to shareholders, is struck out and a new subsection substituted. This subsection is applicable to the 1952 taxation year.

Section 10 dealing with deductions allowed in computing income is amended by adding a new clause (*fa*) to subsection (1). This clause is applicable to the 1952 taxation year.

Subsection (3) and (3*a*) of section 11 are struck out and a new subsection (3) substituted. This subsection deals with deductions allowed to corporations whose principal business is mining or exploring for minerals. This subsection is applicable in respect of expenditures incurred in the calendar year 1952.

Section 13 is struck out and a new section substituted. The new section 13 deals with the determining of a corporation's chief source of income and is applicable to the 1952 taxation year.

Section 16 is amended. Subsection (3*a*) is struck out and a new subsection (3*a*) is substituted in its stead. Subsections (5) and (6) are also struck out and new subsections (5) to (8) inclusive are substituted in their stead. These subsections relate to the computing of a corporation's income for a taxation year and are applicable to the 1952 taxation year.

Section 22 is amended. A new clause (*e*) is added to subsection (1). Subsection (1) deals with dividends from exempted corporations. Subsection (3) is struck out and a new subsection is substituted in its stead. This subsection deals with losses not deductible for trading stock. These amendments are applicable to the 1952 taxation year.

Section 27 is amended by renumbering the section as subsection (1) and by substituting a new clause (*a*) for the present clause (*a*). A new subsection (2) is added. This section relates to deductions from income outside Canada. The amendments are applicable to the 1952 taxation year.

A new section 29a is added to the Act which permits a corporation to elect to pay as tax for the year under this Act certain amounts that would be payable with respect to its income in lieu of the amount that would otherwise be payable. This section is applicable to the 1951 and 1952 taxation years but when applied to the year 1951 certain changes are required to be taken into consideration.

Section 44 which relates to personal corporations is amended by adding a new subsection (11). This subsection is applicable to the 1952 taxation year.

Section 47 dealing with foreign business corporations is amended by striking out subclause (i) of clause (c) of subsection (2) and by substituting a new subclause. This amendment is applicable to the 1952 taxation year.

Section 52 is amended by adding a new subsection (2). This section relates to the employer's payment to a pension plan.

Subsection (1) of section 53 is struck out and a new subsection substituted. This subsection determines what shall not be included in computing the income of a mining corporation. This subsection is applicable to the 1952 taxation year.

New subsections (4) and (5) are added to section 59. These subsections relate to the service of garnishee summons.

Section 71 is amended by striking out subsection (12) and by substituting a new subsection (12). This subsection relates to proof of documents.

Clause (af) of subsection (1) of section 73 is struck out and a new clause substituted therefor. This clause defines "farming" and is applicable to the 1952 taxation year.

Section 17 of this amending Bill declares that clause (s) of section 41 of *The Interpretation Act* applies to the interpretation of the term "one person" as it relates to certain portions of sections 19 and 19a of *The Alberta Corporation Income Tax Act, 1949*. It is further provided that nothing in this section applies in respect of any matter in respect of which an appeal is pending before a court when this Bill comes into force.

This Bill comes 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. 104 of 1953

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

(Assented to \_\_\_\_\_, 1953)

**H**ER 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) Section 7 is amended by striking out subsection  
(2) and by substituting the following: Section 7  
amended

“(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 Loan to  
share-  
holder

“(a) the loan was made in the ordinary course of its  
business and the lending of the money was part of  
its ordinary business and *bona fide* arrangements  
were made at the time the loan was made for repay-  
ment thereof within a reasonable time, or

“(b) the loan was repaid within one year from the end  
of the taxation year of the corporation in which  
it was made and it is established, by subsequent  
events or otherwise, that the repayment was not  
made as a part of a series of loans and repay-  
ments.”.

(2) This section is applicable to the 1952 taxation year. Applica-  
tion

3. Section 10, subsection (1) is amended by adding im-  
mediately after clause (f) the following new clause: Section 10  
amended

“(fa) where an approved superannuation fund or plan  
contains a provision under which the corporation  
may provide superannuation or pension benefits  
for an employee, officer or director of the cor-  
poration by making a lump sum payment to or  
under the fund or plan in the year in which the em-  
ployee, officer or director retires from the employ-  
ment or office, an amount paid by the corporation  
in the year or within sixty days from the end of  
the year pursuant thereto as the lump sum in re-

spect of an employee, officer or director who retired in the year (except to the extent that it is deductible under clause (f) );”.

Applica-  
tion

(2) This section is applicable to the 1952 taxation year.

Section 11  
amended

4. (1) Section 11 is amended by striking out subsections (3) and (3a) and by substituting the following:

Mining or ex-  
ploring for  
minerals

“(3) A corporation whose principal business is mining or exploring for minerals may deduct, in computing its income for the purpose of this Act for a taxation year, the lesser of

“(a) the aggregate of the prospecting, exploration and development expenses incurred by it, directly or indirectly, in searching for minerals in Canada,

“(i) during the taxation year, and

“(ii) during previous taxation years, to the extent that they were not deductible in computing income for a previous taxation year, or

“(b) of that aggregate an amount equal to its income for the taxation year

“(i) if no deduction were allowed under clause (b) of subsection (1) of section 10 of this Act, and

“(ii) if no deduction were allowed under this subsection,

minus the deduction allowed by section 22 of this Act,

if the corporation has filed certified statements of such expenditures and has satisfied the Provincial Treasurer that it has been actively engaged in prospecting and exploring for minerals in Canada by means of qualified persons and has incurred the expenditure for such purposes.”.

Applica-  
tion

(2) This section is applicable in respect of expenditures incurred in the calendar year 1952.

Section 13  
amended

5.(1) Section 13 is struck out and the following is substituted:

Chief source  
of income

“13. (1) 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 minus the lesser of

“(a) one-half its farming loss for the year, or

“(b) five thousand dollars.

Provincial  
Treasurer  
may  
determine

“(2) For the purpose of this section, the Provincial Treasurer may determine that 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.

“(3) For the purpose of this section, 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.”

“farming loss”

(2) This section is applicable to the 1952 taxation year.

Application

**6.** (1) Section 16 is amended

Section 16 amended

(a) by striking out subsection (3a) and by substituting the following:

“(3a) Where a non-resident person has paid, or agreed to pay to a corporation carrying on business in Canada with whom it was not dealing at arms length as price, rental, royalty or other payment for use or reproduction of any property, or as consideration for the carriage of goods or passengers or for other services, an amount less than the amount (hereinafter referred to as ‘the reasonable amount’) that would have been reasonable in the circumstances if the non-resident person and the corporation had been dealing at arms length the reasonable amount 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.”;

Inadequate considerations

(b) by striking out subsections (5) and (6) and by substituting the following:

“(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, or as consideration for the carriage of goods or passengers or for other services, an amount greater than the amount (hereinafter referred to as ‘the reasonable amount’) that would have been reasonable in the circumstances if the non-resident person and the corporation had been dealing at arms length, the reasonable amount shall, for the purposes of computing the corporation’s income from the business, be deemed to have been the amount that was paid or is payable therefor.

Idem

“(6) Where property of a corporation has been appropriated in any manner whatsoever to, or for the benefit of, a shareholder, 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 for the year, it shall be deemed to have sold the property during the year and to have received therefor the fair market value thereof.

Idem

**Idem** “(7) Where property of a corporation has been appropriated in any manner whatsoever to, or for the benefit of, a shareholder, on the winding up of the corporation, if the sale thereof at the fair market value immediately prior to the winding up would have increased the corporation’s income for a taxation year, for the purpose of determining the corporation’s income for the year, it shall be deemed to have sold the property during the year and to have received therefor the fair market value thereof.

**Idem** “(8) Where depreciable property of a corporation as defined for the purpose of section 19 has been disposed of under such circumstances that subsection (2) of section 19 is applicable to determine, for the purpose of clause (a) of subsection (1) of section 10, the capital cost of the property to the person by whom the property was acquired, subsections (4), (6) and (7) are not applicable in respect of the disposition.”.

**Applica-  
tion** (2) This section is applicable to the 1952 taxation year.

**Section 22  
amended**

- 7. (1) Section 22 is amended**
- (a) by striking out the word “or”, where it occurs at the end of clause (c) of subsection (1);
  - (b) by adding at the end of clause (d) of subsection (1) the word “or”;
  - (c) by adding immediately after clause (d) the following new clause:

“(e) was a foreign business 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.”.

- (d) by striking out subsection (3) and by substituting the following:

“(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 unless it is established by the corporation that

“(a) the corporation owned the share three hundred and sixty-five days or longer before the loss was sustained, and

“(b) the corporation did not, at the time the dividend was received, own more than five per cent of the issued share capital of the corporation from which the dividend was received.”.

**Losses not  
deductible  
for trading  
stock**

**Applica-  
tion**

- (2) This section is applicable to the 1952 taxation year.

**8. (1) Section 27 is amended**Section 27  
amended

- (a) by renumbering the section as subsection (1);
- (b) by striking out clause (a) of subsection (1) and by substituting the following:

“(a) that proportion of the tax paid by it to the government of a country other than Canada on that part of its income from sources therein for the year upon which it is subject to tax under this Act for the year that the tax otherwise payable by the corporation under this Act is of the tax payable by the corporation under *The Income Tax Act* (Canada) for the same taxation year before making any deduction from tax under subsection (1) of section 38 thereof;”;

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

“(2) Where a corporation’s income for a taxation year is in whole or in part from sources in more than one country other than Canada,

“(a) subsection (1) shall be read as providing for a separate deduction in respect of each of the countries other than Canada, and

“(b) the expression in subsection (1) ‘amounts that are deductible for the year under clause (d) of subsection (1) of section 22, shall read as referring, in the case of the computation of the deduction under subsection (1) in respect of each country, to the amounts that are deductible under the said clause (d) by reason of dividends received from that country.’”.

- (2) This section is applicable to the 1952 taxation year. Applica-  
tion

**9. (1) The following new section is added immediately after section 29:** New section  
29a

“**29a.** (1) Where an amount is included in computing a corporation’s income for a taxation year by virtue of section 19, the corporation may elect to pay, as tax for the year under this Act, in lieu of the amount that would otherwise be payable, an amount equal to the aggregate of Election

“(a) the tax that would be payable by the corporation for the year under this Act if no amount were included in computing the corporation’s income for the year by virtue of section 19, and

“(b) the aggregate of the amounts by which the corporation’s taxes under this Act would have been increased if one-third of the amount so included by virtue of section 19 had been included in computing the corporation’s income for each of the three immediately preceding taxation years.

“(2) Subsection (1) does not apply where the corporation did not carry on business in Canada in each of the years referred to in clause (b) of subsection (1). Non-appli-  
cation

Application (2) Section 29*a* as enacted by subsection (1) is applicable to the 1952 taxation year.

Application (3) The said section 29*a* is applicable to the taxation year 1951 but when so applied for the year 1951 shall read as though the fraction "one-half" were substituted for the fraction "one-third" where it appears therein and the word "two" were substituted for the word "three" where it appears therein.

Section 44 amended **10.** (1) Section 44 is amended by adding immediately after subsection (10) the following new subsection:

If personal corporation's chief source of income neither farming nor combination of, etc. " (11) Where it has been determined for the purpose of subsection (1) of section 13 that 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 farming business shall be deemed, for the purpose of clause (c) of subsection (8), not to have been during the year an active financial, commercial or industrial business."

Application (2) This section is applicable to the 1952 taxation year.

Section 47 amended **11.** (1) Section 47, subsection (2), clause (c) is amended by striking out subclause (i) and by substituting the following:

"(i) its business operations were of an industrial, mining, commercial, public utility or public service nature and were carried on entirely outside Canada (except for management and the designing, purchasing and transportation of goods if the goods were not acquired for resale in the course of trading and were acquired for the operations so carried on 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;"

Application (2) This section is applicable to the 1952 taxation year.

Section 52 amended **12.** Section 52 is amended

- (a) by renumbering the section as subsection (1);
- (b) by adding immediately after subsection (1) the following new subsection:

Application of subsection (1) " (2) For greater certainty, and without restricting the generality of subsection (1), it is hereby declared that subsection (1) is applicable where the the resources of a fund or plan are required to be augmented by reason of an increase in the superannuation or pension benefits payable out of or under the fund or plan."

Section 53 amended **13.** (1) Section 53 is amended by striking out subsection (1) and by substituting the following:



**53.** (1) Where a corporation establishes that a mine Mining companies  
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 except sylvite), Three-year exemption  
that came into production of ore during the calendar years 1946 to 1952, 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) This section is applicable to the 1952 taxation year. Application

**14.** Section 59 is amended by adding immediately after subsection (3) the following new subsections: Section 59 amended

“(4) Where the person who is or is about to become indebted or liable carries on business under a name or style other than his own name, the registered or other letter under subsection (1) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee. Service of garnishee

“(5) Where the persons who are or are about to become indebted or liable carry on business in partnership, the registered or other letter under subsection (1) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.” Idem

**15.** Section 71 is amended by striking out subsection (12) and by substituting the following: Section 71 amended

“(12) Every document purporting to be an order, direction, demand, notice, certificate, requirement, decision, assessment, discharge of mortgage or other document purporting to have been executed under, or in the course of administration or enforcement of this Act over the name in writing of the Provincial Treasurer, the Deputy Provincial Treasurer, or an officer authorized by regulation to exercise powers or perform duties of the Provincial Treasurer under this Act, shall be deemed to be a document signed, made and issued by the Provincial Treasurer, the Deputy Provincial Treasurer or the officer unless it has been called in question by the Provincial Treasurer or by some person acting for him or Her Majesty.” Proof of documents

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

“(af) ‘farming’ includes tillage of the soil, livestock raising or exhibiting, maintaining of horses for racing, raising of poultry, fur farming, dairying, fruit growing and the keeping of bees but does not include an office or employment under a person engaged in the business of farming;”.

Application (2) This section is applicable to the 1952 taxation year.

Application of the Interpretation Act **17.** For greater certainty, it is hereby declared that clause (s) of section 41 of *The Interpretation Act* is applicable to the interpretation of the expression “one person” where it appears in the part of subsection (2) of section 19 of *The Alberta Corporation Income Tax Act, 1949*, preceding clause (a) thereof and where it appears in the part of subsection (3) of section 19a of that Act preceding clause (a) thereof; and the said expression is deleted and the expression “a person” is substituted therefor; but nothing in this section is applicable in respect of any matter in respect of which an appeal is pending before a court when this Act comes into force.

Coming into force **18.** This Act comes into force on the day upon which it is assented to.

No. 104

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FIRST SESSION  
TWELFTH LEGISLATURE  
2 ELIZABETH II

1953

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**BILL**

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

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Received and read the

First time .....

Second time.....

Third time.....

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HON. MR. MANNING.

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