

Bill No. 30 of 1955

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.

This amendment is intended to put in the law what was thought to be already there rather than to introduce any new policy of taxation. It was believed that the law made taxable any surplus arising from the insurance activities of mutual insurance corporations and not returned to the policyholders by way of dividends or refund of premiums, but the decision of the courts in the case of Stanley Mutual Insurance Company vs. Minister of National Revenue (1953 C.T.C. 187) showed that this was not so. The amendment to the federal *Income Tax Act* authorized the method of taxing any surplus arising from insurance activities that had been used prior to this court decision. This amendment became effective only from the first of January, 1954, for resident companies, but was made retroactive for non-resident companies. Accordingly for *The Alberta Corporation Income Tax Act* and *The Alberta Corporation Income Tax Act, 1949* which apply only to taxation years considerably prior to this date the amendment dealing with the taxation of income arising from insurance activities will apply only to non-resident companies. It will be noted that paragraphs (a) and (b) of the amendment prevent its coming into effect for resident mutual insurance corporations.

At the same time, for greater certainty it is intended to provide specifically that income which mutual insurance companies received from investments in the taxation years covered by *The Alberta Corporation Income Tax Act* and *The Alberta Corporation Income Tax Act, 1949*, is taxable income.

Any insurance corporation other than a life insurance corporation is permitted to deduct, in computing income, every amount paid or credited to a policyholder of the corporation by way of dividend, refund of premiums or refund of premium deposits (section 10 (i) and section 50). Therefore if a corporation is a truly mutual corporation and returns to its policyholders any premiums or other income left after paying all claims and operating expenses, it will have no taxable income and thus pay no corporation income tax. It will be liable for tax only if it retains all or part of the excess of its income over the aggregate of claims and expenses. This applies to stock as well as mutual corporations.

The only corporations that will become liable for tax on this surplus by virtue of this amendment are those non-resident mutual insurance corporations which had such a surplus in the years affected by the decision in the Stanley Mutual case, and whose income tax returns for those years have not been finally assessed or might otherwise still be appealed. The taxation years affected may include years back to 1947. Even for these corporations the amendment does not increase retroactively the tax payable for they will pay only what they thought they had to pay and what was intended they should pay.

It should be noted that non-resident mutual insurance corporations other than life insurance corporations are not taxable under *The Alberta Corporation Income Tax Acts* on their investment income. When a non-resident company carrying on business in Canada also has investment income the investment income is normally considered to be earned by the head office of the company abroad and not by the operations of the company in Canada. Consequently the tax on their surplus is the only tax leviable under *The Alberta Corporation Income Tax Acts*.

Unlike non-resident companies, resident companies have always been considered to be taxable under these Acts on their investment income. While the Stanley Mutual case did not disprove this understanding it is now considered desirable to make the law specific. For resident companies, therefore, this amendment will clearly establish their liability for tax on any investment income for the years covered by these Acts. Again, the amendment will in practice affect only those companies whose returns have not been assessed or which might otherwise still be appealed.

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. 30 of 1955

An Act to amend The Alberta Corporation Income Tax Act

(Assented to _____, 1955)

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*, being chapter 3 of the Statutes of Alberta, 1947, is hereby amended.

2. (1) The following new section is added immediately after section 20: New section
20a

"20a. It is hereby declared that an insurance corporation other than a life insurance corporation, whether or not it is a mutual corporation, that has, in a taxation year, entered into insurance contracts or other arrangements or relationships whereby it can reasonably be regarded as undertaking to insure other persons, whether or not such persons are members or shareholders of the corporation, against loss, damage or expense of any kind, shall, regardless of the form or legal effect of those contracts, arrangements or relationships, be deemed, for the purposes of this Act, to have been carrying on an insurance business in the year for profit, and, in any such case, for the purpose of computing the income from the business so deemed to have been carried on, the following rules are applicable: Insurance
corporations
other than
life

- (a) every amount received under, in consideration of, in respect of or on account of such a contract, arrangement or relationship shall be deemed to have been received by the corporation in the course of the business;
- (b) the income shall, otherwise, be computed in accordance with the rules applicable in computing the income from a business for the purposes of this Act; and
- (c) all income from property vested in the corporation shall be deemed to be income of the corporation."

(2) This section is applicable in the case of a non-resident corporation to the 1947 and subsequent taxation years.

(3) This section (except paragraphs (a) and (b) thereof in the case of a mutual insurance corporation) is applicable in the case of a resident corporation to the 1947 and subsequent taxation years.

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

THIRD SESSION
TWELFTH LEGISLATURE
4 ELIZABETH II
1955

BILL

An Act to amend The Alberta
Corporation Income Tax Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. GERHART
