

No. 109

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BILL 109

A Bill to impose a Tax on Insurance Companies

HON. MR. HOOKE

EDMONTON, ALBERTA
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1957

Explanatory Note

General. The Government of Canada is vacating the insurance premium tax field and it is intended that Alberta re-enter this taxation field in the year 1957 and subsequent years. This Bill will therefore provide for the imposition within Alberta of an insurance premium tax.

2. Definition of terms used.

3. The tax will be two per cent of the gross premiums receivable in respect of the insurance business transacted in Alberta in a calendar year, with certain allowable deductions and certain exceptions.

BILL

No. 109 of 1957

An Act to impose a Tax on Insurance Companies

(Assented to _____, 1957)

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

1. This Act may be cited as "*The Insurance Corporations Tax Act*".

2. In this Act,

- (a) "annuity contract" means a contract that provides for the payment of an income for a specified period or for life and under the terms of which the sole benefit stated to be payable by reason of death does not exceed the sum of the amounts paid as consideration for the contract together with interest;
- (b) "insurance company" means a person or corporation carrying on in the Province the business of insurance within the meaning of *The Alberta Insurance Act*, and
 - (i) includes a reciprocal or inter-insurance exchange and underwriters and syndicates of underwriters operating on the plan known as "Lloyds", but
 - (ii) does not include a fraternal society as defined in *The Alberta Insurance Act*;
- (c) "marine insurance" has the same meaning as given to that expression in *The Alberta Insurance Act*;
- (d) "taxation year" means a calendar year in which premiums are receivable in respect of business transacted in the Province.

3. (1) Every insurance company shall pay to the Provincial Secretary for the use of the Province a tax equal to two per cent of the gross premiums receivable by it during the taxation year in respect of business transacted in the Province by the company, after deducting from the gross premiums

- (a) an amount equal to the cash value of dividends paid or credited to its policy-holders in that taxation year,

4. Tax payable on or before 15th of March of the year following the taxation year.

5. Six per cent interest charged on overdue taxes.

6. Provincial Secretary may require further returns.

- (b) an amount equal to the premiums returned in that taxation year, and
 - (c) an amount equal to the difference between the gross reinsurance premiums paid or credited by an insurer to a reinsurer licensed in Alberta, and the sum of
 - (i) the cash value of dividends paid or credited to the insurer by the reinsurer, and
 - (ii) the premiums returned by the reinsurer to the insurer.
- (2) For the purposes of subsection (1) "business transacted in the Province" means
- (a) in the case of property insurance, all contracts on which premiums are receivable from, or in respect of, persons whose property was situated in the Province at the time their premiums became payable, and
 - (b) in the case of other insurance all contracts on which premiums are receivable from, or in respect of, persons who were resident in the Province at the time their premiums became payable.
- (3) The tax imposed under this section is not payable,
- (a) by a company transacting life insurance, on amounts receivable as consideration for an annuity contract, or
 - (b) in respect of premiums receivable under a contract of marine insurance.
- (4) This section applies to premiums receivable during the year 1957 and each calendar year thereafter.

4. (1) An insurance company that is liable to pay a tax under this Act shall, on or before the fifteenth day of March in the year following the taxation year, file a return, in a form to be prescribed by the Provincial Secretary, showing the amount of tax payable by the company in respect of the taxation year and shall remit to the Provincial Secretary the amount of the tax, if any, payable by it in respect of the taxation year.

(2) The return required under subsection (1) shall be verified by the oath or affirmation of the president, manager, secretary or chief agent of the insurance company in Canada.

5. Where any tax payable under this Act is not paid in full on the date on which payment is due, the insurance company shall pay to the Provincial Secretary the amount due, together with interest on the amount of the tax unpaid at the rate of six per cent per annum from the date on which the tax was due until payment is made.

6. If the Provincial Secretary so desires in order to enable him to determine the correctness of any return made under the provisions of this Act, or if he desires

7. Permits appointment of inspectors and examination of books of insurance companies.

8. Lieutenant Governor in Council may order an inquiry in certain circumstances.

9. Relates to the inquiry and costs thereof to determine taxes.

further information concerning a return, he may require the president, manager, secretary or agent of the insurance company to file a further statement under oath within thirty days.

7. (1) The Provincial Secretary may appoint inspectors to examine into the business, affairs, books and papers of an insurance company in so far as they relate to any business transactions whereby the company may be liable to taxation under this Act.

(2) The insurance company and the officers, employees or agents of the company shall produce to the inspectors for inspection by them all books, papers, letters, and documents, relating to any business transactions whereby the company may be liable to taxation under this Act.

(3) Any such inspector may examine under oath any officer, employee, or agent of any such insurance company respecting any such business transactions and may administer the oath accordingly.

(4) An officer, employee or agent of an insurance company who refuses, neglects or omits to produce as required under subsection (2) any books, papers, letters or documents, or who refuses to answer a question put to him under subsection (3), is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars in respect of each offence and in default of payment to imprisonment for a term not exceeding six months.

8. (1) If a return or statement required under section 4 or section 6 is not filed within the time prescribed therefor, or if the Provincial Secretary is not satisfied therewith, the Lieutenant Governor in Council may direct an inquiry to be made by a commissioner or commissioners appointed under *The Public Inquiries Act*, and the determination of the commissioner or commissioners, made after giving the parties an opportunity to be heard, is, for the purposes of this Act, final as to the particulars mentioned in the report of the commissioner or commissioners.

(2) Notwithstanding subsection (1), the Lieutenant Governor in Council may for cause vary the report, so long as the amount payable under this Act as found by the commissioner or commissioners is not increased without first giving the insurance company or its agents an opportunity of being heard.

9. (1) If the inquiry is occasioned by failure to file the return required under section 4 or a further statement required by the Provincial Secretary under section 6, the insurance company shall pay the costs of the inquiry, but if the return or statement is found to be correct and the required return or statement was duly filed, the Provincial Secretary may direct the costs, or such of them as were necessary, to be paid by the Province, and he may for this purpose settle them or direct that they be taxed.

10. Where an understatement was unintentional, penalty and costs may be remitted.

11. Licence may be cancelled in cases specified.

12. Name under which action to be brought.

(2) If it is found by the commissioner or commissioners that the return or statement filed understates the amount on which the tax should be paid, the insurance company besides paying the costs of the inquiry shall pay as a tax such sum as is found payable under the report of the commissioner or commissioners and unless the Lieutenant Governor in Council otherwise orders, a penalty of fifty per cent of such sum.

(3) The costs of the commission shall be determined and certified by the Provincial Secretary, or he may direct them to be taxed, and when payable to the Crown they may be recovered in the manner provided in section 14 for the recovery of taxes.

(4) If the Provincial Secretary directs the costs to be taxed they shall be taxed by any of the clerks or by the Registrar or other officer of the Supreme Court as directed by the Provincial Secretary.

10. If it is found by the commissioner or commissioners that the return or statement filed understates the amount on which the tax should be paid, but it is certified by the commissioner or commissioners that such understatement was made in good faith, the Lieutenant Governor in Council may upon the recommendation of the Provincial Secretary remit so much of the added percentage and so much of the costs as he thinks proper.

11. If any insurance company

- (a) neglects or refuses to make a return within the time prescribed by this Act,
- (b) neglects or refuses to furnish to the Provincial Secretary any further statement or other information required after making the return, or
- (c) makes a return and furnishes such further statement or other information, but it is found by the commissioner or commissioners that the return or statement made by the insurance company is glaringly inaccurate, and that the amount upon which the tax should be paid has been wilfully understated,

the Provincial Secretary may, in addition to subjecting the insurance company to the penalties herein provided, order the cancellation of the licence, certificate of registration or other document of incorporation under which the insurance company transacts business in Alberta, whereupon the licence, certificate of registration or other document is absolutely revoked and becomes void for all purposes.

12. In any action brought by the Provincial Secretary under this Act it is sufficient if the action is brought by "The Provincial Secretary for the Province of Alberta" as plaintiff, and it is not necessary to name the Provincial

13. Offences created in respect of returns and penalties therefor.

14. Taxes may be levied by distress when in default.

15. Lieutenant Governor in Council may make ancillary regulations and orders.

16. Subsections (1) and (2) remove certain taxes imposed on insurance companies by the Acts here mentioned which have heretofore been suspended by Dominion-Provincial Agreement. These suspended taxes are replaced by the tax under this Act.

Secretary, and the action does not abate by reason of a change of Provincial Secretary, but may proceed as if no change had been made.

13. (1) An insurance company liable to taxation under this Act that refuses or neglects or whose chief agent or attorney, as the case may be, refuses or neglects to make any return or statement as required by this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than fifty dollars for each and every day during which the refusal or neglect continues.

(2) In construing and enforcing this section, the act, omission, neglect or failure of an officer, employee, agent or attorney of, or any other person acting for, an insurance company liable to taxation under this Act shall be deemed to be the act, omission, neglect or failure of the insurance company if the officer, employee, agent or other person so acting was acting within the scope of his employment or instructions.

14. Where default is made in the payment of taxes imposed by this Act, the Provincial Secretary may levy and collect the taxes with costs by distress upon the goods and chattels, wherever found, of the insurance company under a warrant signed by the Provincial Secretary and directed to the sheriff of the judicial district in which the insurance company has any goods or chattels, and in that case the sheriff shall realize the taxes or so much thereof as are in arrear, and all costs, by sale of the goods and chattels or so much thereof as is necessary to satisfy the warrant and costs.

15. (1) For the purpose of carrying out the provisions of this Act according to their intent the Lieutenant Governor in Council may make such regulations and orders as are ancillary thereto and not inconsistent therewith.

(2) A regulation or order made under and in accordance with the authority granted by this section has the force of law.

(3) Without restricting the generality of the foregoing, the Lieutenant Governor in Council may make such regulations and orders not inconsistent with any other provision of this Act,

- (a) respecting the form and content of all returns, reports, and statements required by the Provincial Secretary for the due administration of this Act,
- (b) respecting the forms and contents of any documents required for use under this Act, and
- (c) respecting the definition of terms used in this Act and not herein defined.

16. (1) All the provisions of *The Corporations Taxation Act* imposing a tax on insurance companies, as in that Act defined, are repealed by this Act, and this Act shall be deemed to have been substituted for such provisions.

(3) The tax on reciprocals and inter-insurance exchanges under The Alberta Insurance Act is repealed.

These subsections will prevent dual taxation.

17. Exempts insurance company from similar tax by local authorities.

18. Act to apply in 1957 and thereafter.

19. Commencement date.

(2) The reference to sections 4 to 19 of *The Corporations Taxation Act* in subsection (3) of section 8 of *The Income Tax Act*, in so far as it applies to a corporation liable to taxation under this Act, shall be deemed to be a reference to this Act.

(3) The provisions of section 418 of *The Alberta Insurance Act*, being chapter 201 of the Revised Statutes of Alberta, 1942, (being section 443 of chapter 159 of the Revised Statutes of Alberta, 1955) are repealed by this Act and this Act shall be deemed to be substituted therefor.

17. Where an insurance company pays a tax under this Act, it is not liable to any similar tax imposed or levied by a municipality or other local authority.

18. This Act is applicable on and after the first day of January, 1957.

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

No. 109

THIRD SESSION
THIRTEENTH LEGISLATURE
5 ELIZABETH II

1957

BILL

An Act to impose a Tax on Insurance
Companies

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. HOOKE
