

No. 1
(2nd Session)

14th Legislature, Alberta
10 Elizabeth II

BILL 1

A Bill respecting Income Tax

HON. MR. HINMAN

Explanatory Note

General. This Bill provides for the imposition of individual and corporation income taxes by the Province. It provides a means for raising revenue to replace that provided under the terms of the agreement made with the Government of Canada pursuant to The Tax Collection Suspension Act, 1957, which agreement expires in 1962.

The tax payable by an individual under this Bill is to be an amount equal to a specified percentage of the tax payable by that individual under the Federal Income Tax Act, while the tax payable by a corporation is to be an amount equal to a specified percentage of the corporation's "taxable income" as determined under the federal Act.

The Bill also authorizes the Provincial Treasurer, with the approval of the Lieutenant Governor in Council, to enter into an agreement with the Government of Canada whereby the Government of Canada will collect the taxes payable under this Bill on behalf of the Province.

2. (1)-(3) Definitions.

BILL

No. 1 of 1961

(Second Session)

An Act respecting Income Tax

(Assented to _____, 1961)

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 Alberta Income Tax Act*".

2. (1) In this Act,

- (a) "agreeing province" means a province that has entered into a collection agreement with the Government of Canada for the collection of tax under its income tax statute, unless the context otherwise requires by reason of the fact that the collection agreement entered into with a province provides only for the collection by Canada of individual income tax;
- (b) "amount" means money, rights or things expressed in terms of the amount of money or the value in terms of money of the right or thing;
- (c) "assessment" includes a re-assessment;
- (d) "business" includes a profession, calling, trade, manufacture or undertaking of any kind whatsoever and includes an adventure or concern in the nature of trade but does not include an office or employment;
- (e) "collection agreement" means an agreement entered into pursuant to subsection (1) of section 49;
- (f) "corporation" includes an incorporated company and a "corporation incorporated in Canada" includes a corporation incorporated in any part of Canada before or after it became part of Canada;
- (g) "court" means the Supreme Court of Alberta;
- (h) "deputy head" means,
 - (i) the Deputy Provincial Treasurer, or
 - (ii) where a collection agreement is entered into, the Deputy Minister of National Revenue for Taxation;
- (i) "employed" means performing the duties of an office or employment;

- (j) "employee" includes officer;
- (k) "employer", in relation to an officer, means the person from whom the officer receives his remuneration;
- (l) "federal Act" means the Income Tax Act, being chapter 148 of the Revised Statutes of Canada, 1952, as amended from time to time;
- (m) "federal regulations" means the regulations made pursuant to the federal Act, as amended from time to time;
- (n) "*Financial Administration Act*" means the *Financial Administration Act*, being chapter 116 of the Revised Statutes of Canada, 1952, as amended from time to time;
- (o) "fiscal period" means a fiscal period determined in accordance with and for the purposes of the federal Act;
- (p) "income tax statute" means, with reference to an agreeing province, the law of that province that imposes a tax similar to the tax imposed under this Act;
- (q) "individual" means a person other than a corporation and includes a trust or estate as defined in subsection (1) of section 63 of the federal Act;
- (r) "loss" means a loss as determined in accordance with and for the purposes of the federal Act;
- (s) "Minister" means the Minister of National Revenue for Canada, but in any provision of the federal Act that is incorporated by reference in this Act, unless a collection agreement has been entered into, a reference to the Minister shall be read and construed for the purposes of this Act as a reference to the Provincial Treasurer;
- (t) "*Old Age Security Act*" means the *Old Age Security Act*, being chapter 200 of the Revised Statutes of Canada, 1952, as amended from time to time;
- (u) "permanent establishment" means permanent establishment as defined in the federal regulations;
- (v) "person" or any word or expression descriptive of a person, includes any body corporate and politic, and the heirs, executors, administrators or other legal representatives of such person, according to the law of that part of Canada to which the context extends;
- (w) "prescribed", in the case of a form or the information to be given on a form, means prescribed by order of the Provincial Treasurer, and, in any other case, means prescribed by regulation;
- (x) "province" does not include the Northwest Territories or the Yukon Territory;
- (y) "Provincial Treasurer" means the Provincial Treasurer of Alberta or, where a collection agreement is entered into, means

(4) Definitions under federal Act.

(5) Interpretation generally.

3. (1) Tax payable by individuals.

- (i) in relation to the remittance of any amount as or on account of tax payable under this Act, the Receiver General of Canada, and
 - (ii) in relation to any other matter, the Minister;
 - (z) "Receiver General of Canada" means the Receiver General of Canada, but in any provision of the federal Act that is incorporated by reference in this Act, unless a collection agreement is entered into, a reference to the Receiver General of Canada, shall be read and construed for the purposes of this Act as a reference to the Provincial Treasurer;
 - (aa) "regulation" means a regulation made by the Lieutenant Governor in Council under this Act;
 - (ab) "taxable income" means taxable income as determined in accordance with and for the purposes of the federal Act subject to variation on objection or on appeal, if any, in accordance with the provisions of the federal Act;
 - (ac) "taxpayer" includes any person whether or not liable to pay tax;
 - (ad) "taxation year" means
 - (i) in the case of a corporation, a fiscal period, and
 - (ii) in the case of an individual, a calendar year, and when a taxation year is referred to by reference to a calendar year the reference is to the taxation year or years coinciding with, or ending in, that year.
- (2) The expression "last day of the taxation year" has the meaning given to it in subsection (2) of section 33 of the federal Act.
- (3) The tax payable by a taxpayer under this Act or under Part I of the federal Act means the tax payable by him as fixed by assessment or re-assessment subject to variation on objection or on appeal, if any, in accordance with this Act, or Part I of the federal Act, as the case may be.
- (4) For the purposes of this Act, except where they are at variance with the definitions contained in this section, the definitions and interpretations contained in or made by regulation under the federal Act, as amended from time to time, apply.
- (5) In any case of doubt, the provisions of this Act shall be applied and interpreted in a manner consistent with similar provisions of the federal Act.

PART I—INCOME TAX

DIVISION A—LIABILITY FOR TAX

3. (1) An income tax shall be paid as hereinafter required for each of the 1962 to 1966 taxation years, inclusive, by every individual

(2) Tax payable by corporations.

4. (1) and (2) Amount of tax payable.

(3) Computation of tax.

(4) Definitions for section 4.

- (a) who was resident in Alberta on the last day of the taxation year, or
- (b) who, not being resident in Alberta on the last day of the taxation year, had income earned in the taxation year in Alberta as defined in clause (b) of subsection (4) of section 4.

(2) An income tax shall be paid as hereinafter required for each of the 1962 to 1966 taxation years, inclusive, by every corporation that maintained a permanent establishment in Alberta at any time in the year.

DIVISION B—COMPUTATION OF TAX

Individual Income Tax

4. (1) The tax payable under this Act for a taxation year by an individual who resided in Alberta on the last day of the taxation year and had no income earned in the taxation year outside Alberta is the percentage of the tax payable under the federal Act for that year specified in subsection (3).

(2) The tax payable under this Act for a taxation year by an individual

- (a) who resided in Alberta on the last day of the taxation year but had income earned in the taxation year outside Alberta, or
- (b) who did not reside in Alberta on the last day of the taxation year but had income earned in the taxation year in Alberta,

is the amount that bears the same relation to the percentage of the tax payable under the federal Act for that year specified in subsection (3) that his income earned in the taxation year in Alberta bears to his income for the year.

(3) For the purposes of this section the percentage of the tax payable under the federal Act to be used for computing the tax payable under this section is sixteen per cent.

(4) In this section,

- (a) "tax payable under the federal Act" means the amount of tax payable under Part I of the federal Act, other than under regulations made pursuant to section 66 thereof, for the taxation year in respect of which that expression is being applied, minus any

5. Tax payable by corporations.

amount included in computing that amount by virtue of subsection (3) of section 10 of the *Old Age Security Act*, plus any amount deducted in computing that amount by virtue of sections 33 and 41 of the federal Act;

- (b) "income earned in the taxation year in Alberta" means the income earned in the taxation year in Alberta as determined in accordance with regulations made under paragraph (a) of subsection (3) of section 33 of the federal Act;
- (c) "income earned in the taxation year outside Alberta" means income for the year minus income earned in the taxation year in Alberta;
- (d) "income for the year" means
 - (i) in the case of an individual resident in Canada during part only of the taxation year in respect of whom section 29 of the federal Act applies, his income for the period or periods in the year referred to in paragraph (a) of that section as determined in accordance with and for the purposes of the federal Act,
 - (ii) in the case of an individual not resident in Canada at any time during the taxation year, his income for the year from all duties performed by him in Canada and all businesses carried on by him in Canada as determined in accordance with and for the purposes of the federal Act, and
 - (iii) in the case of any other individual, his income for the year as determined in accordance with and for the purposes of the federal Act.

Corporation Income Tax

5. (1) The tax payable by a corporation under this Act for a taxation year is nine per cent of the corporation's taxable income earned in the year in Alberta.

(2) Where a corporation has a taxation year part of which is before and part of which is after the commencement of 1962, the tax payable by the corporation for that taxation year is that proportion of the tax computed under subsection (1) that the number of days in that portion of the taxation year that is in 1962 is of the number of days in the whole taxation year.

(3) For the purposes of this section "taxable income earned in the year in Alberta" means the taxable income earned in the year in Alberta by a corporation as determined in accordance with regulations made under subsection (2) of section 40 of the federal Act.

6. Tax payable by armed forces personnel.

7. Persons exempt.

8. Returns.

DIVISION C—SPECIAL CASES

Armed Forces

6. (1) Every individual who is liable to tax in accordance with regulations made pursuant to section 66 of the federal Act shall, in accordance with regulations prescribed by the Lieutenant Governor in Council, pay a tax for each taxation month in the five year period commencing on the first day of January, 1962, if he was resident in Alberta on the first day of that taxation month.

(2) The tax payable for a taxation month by an individual to whom subsection (1) applies shall be computed in accordance with tables to be prescribed on the basis of the rates set out in section 4.

(3) Except as provided in regulations prescribed pursuant to subsection (1), the tax payable by an individual under this section shall be in lieu of tax otherwise payable under this Act.

(4) For the purposes of subsection (1) an individual shall be deemed to be resident in Alberta on the first day of a taxation month where, for the purposes of Part XXIII of the federal regulations, he is deemed to be resident in Alberta on that day.

(5) In this section "taxation month" means a taxation month as defined for the purposes of Part XXIII of the federal regulations.

Exemptions

7. No tax is payable under this Act by any person for a period when that person

- (a) was exempt from tax by virtue of subsection (1) of section 62 of the federal Act, or
- (b) was a non-resident-owned investment corporation, and any definition or description in the federal Act applying to any such person applies *mutatis mutandis* for the purposes of this Act unless otherwise provided.

DIVISION D—RETURNS, ASSESSMENTS, PAYMENT AND APPEALS

Returns

8. (1) A return for each taxation year in the case of a corporation and for each taxation year for which a tax is payable in the case of an individual shall, without notice or demand therefor, be filed with the Provincial Treasurer in the prescribed form and containing the prescribed information,

- (a) in the case of a corporation, by or on behalf of the corporation within six months from the end of the year,
- (b) in the case of a person who has died without making his return, by his legal representative, within six months from the day of death,

9. Estimate of tax.

10. Assessment.

- (c) in the case of an estate or trust, within ninety days from the end of the year,
- (d) in the case of any other person, on or before the thirtieth day of April in the next year, by that person or, if he is unable for any reason to file the return, by his guardian, curator, tutor, committee or other legal representative, and
- (e) in a case where no person described in clause (a), (b) or (d) has filed the return, by such person as is required by notice in writing from the Provincial Treasurer to file the return, within such reasonable time as is specified in the notice.

(2) Whether or not he is liable to pay tax under this Act for a taxation year and whether or not a return has been filed under subsection (1) or (3), every person shall, on demand by registered letter from the Provincial Treasurer, file, within such reasonable time as may be stipulated in the registered letter, with the Provincial Treasurer in the prescribed form and containing the prescribed information a return for the taxation year designated in the letter.

(3) Every trustee in bankruptcy, assignee, liquidator, curator, receiver, trustee or committee and every agent or other person administering, managing, winding up, controlling or otherwise dealing with the property, business, estate or income of a person who has not filed a return for a taxation year as required by this section shall file a return in the prescribed form for that year in respect of that person.

(4) Where a partner or an individual who is a proprietor of a business died after the close of a fiscal period but before the end of the calendar year in which the fiscal period closed, a separate return for the period after the close of the fiscal period to the time of death may be filed and, if such a separate return is filed, the tax payable with respect to the period after the close of the fiscal period to the time of death shall be paid as if that tax were tax payable by another person.

Estimate of Tax

9. Every person required by section 8 to file a return shall in the return estimate the amount of tax payable.

Assessment

10. (1) The Provincial Treasurer shall, with all due despatch, examine each return required to be filed under this Act and assess the tax for the taxation year and the interest and penalties, if any, payable.

(2) After examination of a return, the Provincial Treasurer shall send a notice of assessment to the person by whom the return was filed.

(3) Liability for tax under this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

11. Deduction of tax at source.

(4) The Provincial Treasurer may at any time assess tax, interest or penalties under this Act or notify in writing any person by whom a return for a taxation year has been filed that no tax is payable for a taxation year, and may

(a) at any time, if the taxpayer or person filing the return

(i) has made a misrepresentation or committed any fraud in filing the return or in supplying any information under this Act, or

(ii) has filed with the Provincial Treasurer a waiver in the prescribed form within four years from the day of mailing of a notice of an original assessment of a notification that no tax is payable for a taxation year,

and

(b) within four years from the day referred to in subclause (ii) of clause (a) in any other case,

re-assess or make additional assessments, or assess tax, interest or penalties, as the circumstances require.

(5) Where a collection agreement is entered into, notwithstanding that more than four years have elapsed since the day referred to in subclause (i) of clause (a) of subsection (4), the Minister shall re-assess or make additional assessments, or assess tax, interest or penalties, as the circumstances require, where the tax payable under Part I of the federal Act is re-assessed.

(6) Where a taxpayer has filed the return required by section 8 for a taxation year and, within one year from the day on or before which he was required by section 8 to file the return for that year, has filed an amended return for the year claiming a deduction from income under paragraph (e) of subsection (1) of section 27 of the federal Act, in respect of a business loss sustained in the taxation year immediately following that year, the Provincial Treasurer shall re-assess the taxpayer's tax for the year.

(7) The Provincial Treasurer is not bound by a return or information supplied by or on behalf of a taxpayer and, in making an assessment, may, notwithstanding a return or information so supplied or if no return has been filed, assess the tax payable under this Act.

(8) An assessment shall, subject to being varied or vacated on an objection or appeal under this Act and subject to a re-assessment, be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

Payment of Tax

11. (1) Every person paying

(a) salary or wages or other remuneration to an officer or employee, or

(b) a superannuation or pension benefit, or

(c) a retiring allowance, or

12. Payment by farmers and fishermen.

13. Payment by persons other than wage earners.

- (d) an amount upon or after the death of an officer or employee, in recognition of his service, to his legal representative or widow or to any other person whatsoever, or
- (e) an amount as a benefit under a supplementary unemployment benefit plan, or
- (f) an annuity payment, or
- (g) fees, commissions or other amounts for services, or
- (h) a payment under a deferred profit sharing plan or a plan referred to in section 79C of the federal Act as a revoked plan,

at any time in a taxation year shall deduct or withhold therefrom such amount as may be prescribed and shall, at such time as may be prescribed, remit that amount to the Provincial Treasurer on account of the payee's tax for the year under this Act.

(2) Where amounts have been deducted or withheld under this section from the remuneration received by an individual in a taxation year, if the total of such amounts is equal to or greater than three-quarters of the tax payable for the year, he shall, on or before the thirtieth day of April in the next year, pay to the Provincial Treasurer the remainder of his tax for the year as estimated under section 9.

(3) When an amount has been deducted or withheld under subsection (1), it shall, for all the purposes of this Act, be deemed to have been received at that time by the person to whom the remuneration, benefit, payment, fees, commissions or other amounts were paid.

12. (1) Every individual whose chief source of income is farming or fishing shall pay to the Provincial Treasurer

- (a) on or before the thirty-first day of December in each taxation year, two-thirds of the tax as estimated by him at the rate for the year on his estimated tax payable under the federal Act for the year or on his tax payable under the federal Act for the immediately preceding year, and
- (b) on or before the thirtieth day of April in the next year, the remainder of the tax as estimated under section 9.

(2) Where a collection agreement is entered into, an individual to whom subsection (1) applies shall pay an amount under clause (a) thereof computed in respect of the same year as the amount is computed that he is liable to pay under paragraph (a) of section 48 of the federal Act.

13. (1) Every individual other than one to whom subsection (2) of section 11 or section 12 applies, shall pay to the Provincial Treasurer

14. Payment by corporations.

- (a) on or before the thirty-first day of March, the thirtieth day of June, the thirtieth day of September and the thirty-first day of December, respectively, in each taxation year, an amount equal to one-quarter of the tax as estimated by him at the rate for the year on his estimated tax payable under the federal Act for the year or on his tax payable under the federal Act for the immediately preceding year, and
- (b) on or before the thirtieth day of April in the next year, the remainder of the tax as estimated under section 9.

(2) Where a collection agreement is entered into, an individual to whom subsection (1) applies shall pay an amount under clause (a) thereof computed in respect of the same year as the amount is computed that he is liable to pay under paragraph (a) of section 49 of the federal Act.

(3) For the purposes of section 12 and this section, "tax payable under the federal Act" for a taxation year has the meaning given that expression in clause (a) of subsection

(4) of section 3, whether that taxation year is before or after the coming into force of this Act.

14. (1) Every corporation shall, during the twelve months' period ending six months after the close of each taxation year, pay to the Provincial Treasurer

- (a) on or before the last day of each of the first nine months in that period, an amount equal to one-twelfth of the tax as estimated by it at the rate for the taxation year
 - (i) on its estimated taxable income earned in the year in Alberta, or
 - (ii) on its taxable income earned in the year in Alberta as determined for the immediately preceding taxation year,
- (b) on or before the last day of each of the next two months in the period, an amount equal to one-third of the remainder of the tax payable as estimated by it on its taxable income earned in the year in Alberta at the rate for the year, and
- (c) on or before the last day of the period, the remainder of the tax as estimated under section 9.

(2) Where a collection agreement is entered into, a corporation shall pay an amount computed with reference to

- (a) subclause (i) of clause (a) of subsection (1), if the corporation pays an amount computed under subparagraph (i) of paragraph (a) of subsection (1) of section 50 of the federal Act, and
- (b) subclause (ii) of clause (a) of subsection (1), if the corporation pays an amount computed under subparagraph (ii) of paragraph (a) of subsection (1) of section 50 of the federal Act.

15. Payment of balance.

16. Application of certain provisions.

17. Payment of interest.

(3) Where subsection (2) of section 50 of the federal Act is applicable to a corporation and it makes payment pursuant thereto, the corporation shall, 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 9.

(4) For the purposes of this section, "taxable income earned in the year in Alberta" for a taxation year has the meaning given that expression in subsection (3) of section 5, whether that taxation year is before or after the coming into force of this Act.

15. (1) The taxpayer shall, within thirty days from the day of mailing of the notice of assessment, pay to the Provincial Treasurer any part of the assessed tax, interest and penalties then remaining unpaid, whether or not an objection to or appeal from the assessment is outstanding.

(2) Where, in the opinion of the Provincial Treasurer, a taxpayer is attempting to avoid payment of taxes, the Provincial Treasurer may direct that all taxes, penalties and interest be paid forthwith upon assessment.

16. Sections 52 and 53, paragraph (e) of subsection (13) of section 63 and paragraph (a) of subsection (2) of section 64 of the federal Act apply *mutatis mutandis* in respect of the payment of tax under this Act for a taxation year by a taxpayer subject to tax under this Act to whom those provisions apply in respect of tax payable under the federal Act for the same taxation year.

Interest

17. (1) Where the amount paid on account of tax payable by a taxpayer under this Act for a taxation year before the expiration of the time allowed for filing the return for that year is less than the amount of tax payable for the year under this Act, the person liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for filing the return to the day of payment at the rate of six per cent per annum.

(2) In addition to the interest payable under subsection (1), where a taxpayer, being required by this Act to pay a part or instalment of tax, has failed to pay all or any part thereof as required, he shall, on payment of the amount he failed to pay, pay interest at six per cent per annum from the day on or before which he was required to make the payment to the day of payment or the beginning of the period in respect of which he becomes liable to pay interest thereon under subsection (1), whichever is earlier.

(3) In addition to the interest payable under subsection (1), where a corporation that paid tax under subsection (3) of section 14 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 under this Act for the taxation year.

(4) For the purposes of subsection (2), where a taxpayer is required to pay a part or instalment of tax for a taxation year as estimated by him with reference to a preceding year or with reference to the taxation year, he shall be deemed to have been liable to pay a part or instalment computed by reference to his tax for

(a) the preceding year, or

(b) the taxation year,

whichever is the lesser.

(5) Notwithstanding subsection (4), where a collection agreement is entered into, for the purposes of subsection (2) the taxpayer shall be deemed to have been liable to pay a part or instalment computed by reference to his tax for the same year as the year by reference to which the part or instalment that he is deemed by subsection (4) of section 54 of the federal Act to be liable to pay was computed.

(6) Notwithstanding any other provision in this section, no interest is payable in respect of the amount by which the tax is payable by a person is increased by a payment made by the Canadian Wheat Board on a participation certificate previously issued to him until thirty days after the payment is made.

(7) Where the income of a taxpayer for a taxation year, or part thereof, is from sources in another country and the taxpayer by reason of monetary or exchange restrictions imposed by the law of that country is unable to transfer it to Canada, the Provincial Treasurer, if he is satisfied that payment as required by this Act of the whole of the additional tax under this Act for the year reasonably attributable to income from sources in that country would impose extreme hardship on the taxpayer, may postpone the time for payment of the whole or a part of that additional tax for a period to be determined by the Provincial Treasurer but no such postponement may be granted if any of the income for the year from sources in that country has been

(a) transferred to Canada, or

(b) used by the taxpayer for any purpose whatsoever, other than payment of income tax to the government of that other country on income from sources therein, or

(c) disposed of by him,

and no interest is payable under this section in respect of that additional tax, or part thereof, during the period of postponement.

(8) Where a taxpayer is entitled to deduct under section 27 of the federal Act in computing his taxable income for a taxation year an amount in respect of a loss sustained in the taxation year immediately following the taxation year

18. Penalties for failure to file return or give information.

19. Penalty for knowingly or negligently making false statements, etc.

(hereinafter in this subsection referred to as "the loss year"), for the purpose of computing interest under subsection (1) or (2) on tax or a part or instalment of tax for the taxation year for any portion of the period in respect of which the interest is payable on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the taxpayer were not entitled to deduct any amount under section 27 of the federal Act in respect of that loss.

Penalties

18. (1) Every person who has failed to make a return as and when required by subsection (1) of section 8 is liable to a penalty of

- (a) an amount equal to five per cent of the tax that was unpaid when the return was required to be filed, if the tax payable under this Act that was unpaid at that time was less than two thousand dollars, and
- (b) one hundred dollars, if at the time when the return was required to be filed tax payable under this Act equal to two thousand dollars or more was unpaid.

(2) Every person who has failed to file a return as required by subsection (3) of section 8 is liable to a penalty of ten dollars for each day of default but not exceeding fifty dollars.

(3) Every person who has failed to complete the information on a prescribed form as required by or pursuant to section 8 is, unless in the case of an individual the Provincial Treasurer has waived it, liable to a penalty

- (a) of one per cent of the tax payable under this Act but, whether he is taxable or not, not less than twenty-five dollars or more than one hundred dollars, or
- (b) in the case of an individual, of such lesser amount as the Provincial Treasurer may have fixed in respect of the specific failure.

(4) Where a collection agreement is entered into, the Minister may refrain from levying or may reduce a penalty provided in this section, if the person who is liable to such penalty is required to pay a penalty under section 55 of the federal Act.

19. Every person who, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, makes, or participates in, assents to or acquiesces in the making of, a statement or omission in a return, certificate, statement or answer filed or made as required by or under this Act or a regulation, as a result of which the tax that would have been payable by him for a taxation year if the tax had been assessed on the basis of the information provided in the

20. Refund of overpayments.

return, certificate, statement or answer is less than the tax payable by him for the year, is liable to a penalty of twenty-five per cent of the amount by which the tax that would so have been payable is less than the tax payable by him for the year.

Refund of Overpayment

20. (1) Where the return required to be filed by a taxpayer for a taxation year is made within four 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 taxpayer within four years from the end of the year.

(2) Instead of making a refund that might otherwise be made under this section, the Provincial Treasurer may, where the taxpayer is liable or about to become liable to make another payment under this Act, apply the amount of the overpayment to that other liability and notify the taxpayer of that action.

(3) Where an amount in respect of an overpayment is refunded, or applied under this section on other liability, interest at the rate of three 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, or
- (b) the day on or before which the return in respect of which the tax was paid was required to be filed, or
- (c) the day when the return 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.

(4) Where, by a decision of the Provincial Treasurer under section 21 or by a decision of the court or the Supreme Court of Canada, it is finally determined that the tax payable by a taxpayer for a taxation year under this Act is less than the amount assessed by the assessment under section 10 to which the objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment for the taxation year, the interest payable under subsection (3) on that overpayment shall be computed at six per cent instead of three per cent.

(5) Where a collection agreement is entered into and, by virtue of a decision referred to in subsection (3a) of section 57 of the federal Act, that subsection applies to any overpayment made under that Act in respect of tax payable by a taxpayer for a taxation year, subsection (4) of this section applies to any overpayment made under this Act in respect of the same year that arose by virtue of the same decision.

21. Objections to assessment.

22. (1) Right of appeal.

(6) For the purpose of this section "overpayment" means the aggregate of all amounts paid on account of tax minus all amounts payable under this Act or an amount so paid where no amount is so payable.

(7) Where a taxpayer is entitled to deduct under section 27 of the federal Act in computing his taxable income for a taxation year an amount in respect of a loss sustained in the taxation year immediately following the taxation year (hereinafter in this subsection referred to as "the loss year"), and the amount of the tax payable for the taxation year is relevant in determining an overpayment for the purpose of computing interest under subsection (3) for any portion of a period ending on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the taxpayer were not entitled to deduct any amount under section 27 of the federal Act in respect of that loss.

Objections to Assessments

21. (1) A taxpayer who objects to an assessment under this Act may, within ninety days from the day of mailing of the notice of assessment, serve on the Provincial Treasurer a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the deputy head.

(3) Upon receipt of the notice of objection, the Provincial Treasurer shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or re-assess and he shall thereupon notify the taxpayer of his action by registered mail.

(4) A re-assessment made by the Provincial Treasurer pursuant to subsection (3) is not invalid by reason only of not having been made within four years from the day of mailing of a notice of an original assessment or of a notification described in subsection (4) of section 10.

DIVISION E—APPEALS TO THE SUPREME COURT OF ALBERTA

22. (1) A taxpayer who has served a notice of objection to an assessment under subsection (1) of section 21 may appeal to the court to have the assessment vacated or varied after either

- (a) the Provincial Treasurer has confirmed the assessment or re-assessed, or
- (b) one hundred and eighty days have elapsed after service of the notice of objection and the Provincial Treasurer has not notified the taxpayer that he has vacated or confirmed the assessment or re-assessed,

(2) Restriction on appeals.

(3)-(5) Notice of appeal.

(6) Fees.

23. (1) Service of reply to appeal notice.

(2) and (3) Striking out or amendment of notice of appeal.

(4) and (5) Disposal of appeals.

but no appeal under this section may be instituted after the expiration of ninety days from the day notice has been mailed to the taxpayer in accordance with subsection (3) of section 21 that the Provincial Treasurer has confirmed the assessment or re-assessed.

(2) No appeal from an assessment under this Act lies in respect of the computation of

- (a) the tax payable under Part I of the federal Act, or
- (b) the taxable income of a corporation.

(3) An appeal to the court shall be instituted by serving upon the Provincial Treasurer a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the clerk of the court of the judicial district in which the taxpayer resides.

(4) A notice of appeal shall be served upon the Provincial Treasurer by being sent by registered mail addressed to the deputy head.

(5) The taxpayer appealing shall set out in the notice of appeal a statement of the allegations of fact, the statutory provisions and the reasons that he intends to submit in support of his appeal.

(6) The taxpayer appealing shall pay to the clerk of the court a fee of fifteen dollars upon the filing of the copy of the notice of appeal with him.

23. (1) The Provincial Treasurer shall, within sixty days from the day the notice of appeal is received, or within such further time as the court or a judge thereof may either before or after the expiration of that time allow, serve on the appellant and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he intends to rely on.

(2) The court or a judge may, in its or his discretion, strike out a notice of appeal or any part thereof for failure to comply with subsection (5) of section 22 and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out.

(3) The court or a judge may, in its or his discretion,

- (a) strike out any part of a reply for failure to comply with this section or permit the amendment of a reply, and
- (b) strike out a reply for failure to comply with this section and order a new reply to be filed within a time to be fixed by the order.

(4) Where a notice of appeal is struck out for failure to comply with subsection (5) of section 22 and a new notice of appeal is not filed as and when permitted by the court or a judge, the court or a judge thereof may, in its or his discretion, dispose of the appeal by dismissing it.

24. (1) Appeal deemed an action.

(2) Pleading of other matters.

(3) Disposal of appeal.

(4) Order for payment.

25. Proceedings in camera.

26. Practice respecting appeals.

27. Effect of irregularities in assessment.

(5) Where a reply is not filed as required by this section or is struck out under this section and a new reply is not filed as ordered by the court or a judge within the time ordered, the court may dispose of the appeal *ex parte* or after a hearing, on the basis that the allegations of fact contained in the notice of appeal are true.

24. (1) Upon the filing of the material referred to in sections 22 and 23, the matter shall be deemed to be an action in the court and, unless the court otherwise orders, ready for hearing.

(2) Any fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in such manner and upon such terms as the court may direct.

(3) The court may dispose of the appeal by

- (a) dismissing it, or
- (b) allowing it, or
- (c) allowing it and
 - (i) vacating the assessment, or
 - (ii) varying the assessment, or
 - (iii) restoring the assessment, or
 - (iv) referring the assessment back to the Provincial Treasurer for reconsideration and re-assessment.

(4) The court may, in delivering judgment disposing of an appeal, order payment or repayment of tax, interest and penalties or costs by the taxpayer or the Provincial Treasurer.

25. Proceedings under this Division shall be held *in camera* upon request made to the court by the taxpayer.

26. Except as provided in the regulations, the practice and procedure of the court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter deemed to be an action under section 24, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court.

27. An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act or of the federal Act if the provisions in that Act applies in respect of any action under this Act.

28. (1) Administration of Act.

(2) Extension of time for returns.

(3) Security for taxes.

(4) Administration of oaths.

29. Regulations.

PART II

ADMINISTRATION AND ENFORCEMENT

Administration

28. (1) The Provincial Treasurer shall administer and enforce this Act and control and supervise all persons employed to carry out or enforce this Act and the deputy head may exercise all the powers and perform the duties of the Provincial Treasurer under this Act.

(2) The Provincial Treasurer may at any time extend the time for making a return under this Act.

(3) The Provincial Treasurer may, if he considers it advisable in a particular case, accept security for payment of taxes by way of mortgage or other charge of any kind whatsoever on property of the taxpayer or any other person or by way of guarantee from other persons.

(4) Any person employed in connection with the administration or enforcement of this Act may, in the course of his employment,

(a) if he is designated by the Provincial Treasurer for the purpose, or

(b) where a collection agreement is entered into, if he is a person designated by the Minister under the federal Act for the purposes of subsection (5) of section 116 of that Act,

administer oaths and take and receive affidavits, declarations and affirmations for the purposes of or incidental to the administration or enforcement of this Act or the regulations, and every person so designated has for such purposes all the powers of a commissioner for oaths.

29. (1) The Lieutenant Governor in Council may make regulations

(a) prescribing anything that, by this Act, is to be prescribed or is to be determined or regulated by regulation,

(b) providing in any case of doubt the circumstances in which, and extent to which, the federal regulations apply,

(c) generally to carry out the purposes and the provisions of this Act.

(2) Except to the extent that they are inconsistent with any regulations made under subsection (1) or are expressed by any regulation made under subsection (1) to be inapplicable, the federal regulations made under section 117 of the federal Act apply *mutatis mutandis* for the purposes of this Act with respect to all matters enumerated in that section.

(3) A regulation made under this Act is a regulation to which *The Regulations Act* applies but, subject to subsection (5), has no effect unless it has been published as required in that Act.

30. Taxes a debt.

31. Certificate of indebtedness and recovery of costs.

32. Requisition of moneys owing to taxpayer and penalty for failure to comply.

(4) Where a regulation made under the federal Act is applicable, *mutatis mutandis*, it has, subject to subsection (5), no effect for the purposes of this Act unless it has been published in the *Canada Gazette*.

(5) A regulation made under this Act or made under the federal Act and that is applicable, *mutatis mutandis*, when published as herein provided shall, if it so provides, be effective with reference to a period before it was published.

Enforcement

30. All taxes, interest, penalties, costs and other amounts payable under this Act are debts to Her Majesty in right of Alberta and recoverable as such in any court of competent jurisdiction or in any other manner provided by this Act.

31. (1) An amount payable under this Act that has not been paid or such part of an amount payable under this Act as has not been paid may be certified by the Provincial Treasurer

- (a) where there has been a direction by the Provincial Treasurer under subsection (2) of section 15, forthwith after such direction, and
- (b) otherwise, upon the expiration of thirty days after the default.

(2) On production to the court or any other court of competent jurisdiction, a certificate made under this section shall be registered in the court and, when registered, has the same force and effect and all proceedings may be taken thereon as if the certificate were a judgment obtained in the court for a debt of the amount specified in the certificate plus interest to the day of payment as provided for in this Act.

(3) All reasonable costs and charges attendant upon the registration of the certificate are recoverable in like manner as if they had been certified and the certificate had been registered under this section.

32. (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 person 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 person in whole or in part to the Provincial Treasurer on account of the liability under this Act.

(2) The receipt of the Provincial Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

(3) Where the Provincial Treasurer has, under this section, required an employer to pay to the Provincial Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the em-

33. Seizure and sale of goods on default in payment.

ployee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Provincial Treasurer out of each payment of remuneration of such amount as may be stipulated by the Provincial Treasurer in the registered letter.

(4) Every person who has discharged any liability to a person liable to make a payment under this Act without complying with a requirement under this section is liable to pay to Her Majesty in right of Alberta an amount equal to the liability discharged or the amount which he was required under this section to pay to the Provincial Treasurer, whichever is the lesser.

(5) 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.

(6) 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.

33. (1) Where a person has failed to make a payment as required by this Act, the Provincial Treasurer, on giving ten days' notice by registered mail addressed to his last known place of residence, may, whether or not there is an objection to or appeal in respect of the assessment not disposed of, issue a certificate of the failure and direct that the goods and chattels of the person in default that are located in Alberta be seized.

(2) Property seized under this section shall be kept for ten days at the cost and charges of the owner and, if he does not pay the amount due together with the costs and charges within ten days, the property seized shall be sold by public auction.

(3) Except in the case of perishable goods, the Provincial Treasurer shall, a reasonable time before the goods are sold, publish at least once in one or more newspapers of general local circulation, a notice of the sale setting forth the time and place thereof, together with a general description of the property to be sold.

(4) The Provincial Treasurer shall pay or return to the owner of the property seized any surplus resulting from the sale after deduction of the amount owing and all costs and charges.

34. Demand of payment and seizure of goods for failure to comply with demand.

35. (1) Limitation of right of action.

(2) and (3) Returns by employees and effect of failure to file return.

(4) Deductions in trust.

(5) Deductions to be held separate.

(6) Penalty for failure of employer to deduct.

(5) The goods and chattels of any person in default that would be exempt from seizure under a writ of execution issued out of the court are exempt from seizure under this section.

34. (1) Where the Provincial Treasurer suspects that a taxpayer is about to leave Alberta or Canada, he may before the day otherwise fixed for payment, by notice served personally or by registered letter addressed to the taxpayer, demand payment of all taxes, interest and penalties for which the taxpayer is liable or would be liable if the time for payment had arrived, and they shall be paid forthwith notwithstanding any other provision of this Act.

(2) Where a person has failed to pay tax, interest or penalties demanded under this section as required, the Provincial Treasurer may direct that the goods and chattels of the taxpayer that are located in Alberta be seized and subsections (2) to (5), inclusive, of section 33 are, thereupon, applicable *mutatis mutandis*.

35. (1) No action lies against any person for withholding or deducting any sum of money in compliance or intended compliance with this Act.

(2) Every person whose employer is required to deduct or withhold any amount from his remuneration under section 11 shall, from time to time as prescribed, file a return with his employer in the prescribed form.

(3) Every person failing to file a form as required by subsection (2) is liable to have the deduction or withholding from his salary or wages under section 11 made as though he were an unmarried person without dependants.

(4) Every person who deducts or withholds any amount under this Act shall be deemed to hold the amount so deducted or withheld in trust for Her Majesty in right of Alberta.

(5) All amounts deducted or withheld by a person under this Act shall be kept separate and apart from his own moneys and, where a collection agreement is entered into, those amounts shall be kept with amounts deducted or withheld by that person under the federal Act.

(6) Any person who has failed to deduct or withhold any amount as required by this Act or a regulation is liable to pay to Her Majesty in right of Alberta

(a) if the amount should have been deducted or withheld under section 11 from an amount that has been paid to a person resident in Alberta, ten per cent of the amount that should have been deducted or withheld, and

(b) in any other case, the whole amount that should have been deducted or withheld,

together with interest thereon at the rate of ten per cent per annum.

(7) Penalty for failure to remit deductions.

(8) Assessment for amount deducted.

(9) Binding of Crown.

(10) Agreement not to deduct void.

(11) Effect of receipt.

36. Keeping of books and accounts, etc.

(7) Every person who has failed to remit or pay an amount deducted or withheld as required by this Act or a regulation is liable to a penalty of ten per cent of that amount or ten dollars, whichever is the greater, in addition to the amount itself, together with interest on the amount at the rate of ten per cent per annum, but where a collection agreement is entered into the Minister may refrain from levying or reduce the penalty if the person who is liable therefor is liable to pay a penalty under subsection (9) of section 123 of the federal Act by reason of a failure to pay an amount described in paragraph (a) of that subsection.

(8) The Provincial Treasurer may assess any person for any amount that has been deducted or withheld by that person under this Act or the regulations or that is payable by that person under this section and, upon his sending a notice of assessment to that person, Division D of Part I applies *mutatis mutandis*.

(9) Provisions of this Act requiring a person to deduct or withhold an amount in respect of taxes from amounts payable to a taxpayer apply to and bind Her Majesty in right of Alberta.

(10) Where this Act requires an amount to be deducted or withheld, an agreement by the person on whom that obligation is imposed not to deduct or withhold is void.

(11) The receipt of the Provincial Treasurer for an amount withheld or deducted by any person as required by or under this Act is a good and sufficient discharge of the liability of any debtor to his creditor with respect thereto to the extent of the amount referred to in the receipt.

General

36. (1) Every person carrying on business in Alberta and every person who is required, by or pursuant to this Act, to pay or collect taxes or other amounts shall keep records and books of account, including an annual inventory kept in the prescribed manner, at his place of business or residence in Canada or at such other place as may be designated by the Provincial Treasurer, in such form and containing such information as will enable the taxes payable under this Act or the taxes or other amounts that should have been deducted, withheld or collected to be determined.

(2) Where a person has failed to keep adequate records and books of account for the purposes of this Act, the Provincial Treasurer may require him to keep such records and books of account as he may specify and that person shall thereafter keep records and books of account as so required.

(3) Every person required by this section to keep records and books of account shall, until written permission for their disposal is obtained from the Provincial Treasurer, retain every such record or book of account and every account or voucher necessary to verify the information in any such record or books of account.

39. (1) Entry on premises and examination.

(2) Requisition of information.

(3) Search warrant.

37. (1) Any person thereunto authorized by the Provincial Treasurer for any purpose related to the administration or enforcement of this Act may, at all reasonable times, enter into any premises or place where any business is carried on in Alberta or any property is kept or anything is done in connection with any business, or any books or records are, or should be, kept pursuant to this Act, and may

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document which relates or may relate to the information that is or should be in the books or records or the amount of tax payable under this Act,
- (b) examine property described by an inventory or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act,
- (c) require the owner or manager of the property or business and any other person on the premises or place to give him all reasonable assistance with his audit or examination and to answer all proper questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, require the owner or manager to attend at the premises or place with him, and
- (d) if, during the course of an audit or examination, it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

(2) The Provincial Treasurer may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person

- (a) any information or additional information, including a return of income or a supplementary return, or
- (b) production, or production on oath, of any books, letters, accounts, invoices, statements (financial or otherwise) or other documents,

within such reasonable time as may be stipulated therein.

(3) The Provincial Treasurer may, for any purpose related to the administration or enforcement of this Act, with the approval of a judge of the court or of a district court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing any officer of the Treasury Department, together with any peace officer whom he calls on to assist him and such other

(4) Inquiry authorized.

(5) Certified copies of documents.

(6) Hindering persons complying with Act.

(7) Administration of oaths.

(8) Powers of inquiry.

38. (1) Application of section 128A of federal Act.

(2) Reference to Deputy Attorney General.

persons as may be named therein, to enter and search, if necessary by force, any building, receptacle or place in Alberta for documents, books, records, papers or things which may afford evidence as to the contravention of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

(4) The Provincial Treasurer may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Treasury Department, to make such inquiry as he may deem necessary with reference to anything relating to the administration or enforcement of this Act.

(5) Where any book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced or any officer of the Treasury Department may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Provincial Treasurer or a person thereunto authorized by the Provincial Treasurer to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

(6) No person shall hinder or molest or interfere with any person doing anything that he is authorized by or pursuant to this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by or pursuant to this section to do.

(7) Every person thereunto authorized by the Provincial Treasurer may administer or receive an oath, affirmation or statutory declaration required to be given by or pursuant to this section.

(8) For the purpose of an inquiry authorized under subsection (4), the person authorized to make the inquiry has all the powers and authorities of a commissioner appointed under *The Public Inquiries Act*.

38. (1) Section 126A of the federal Act applies *mutatis mutandis* for the purposes of this Act where, in the same or similar circumstances, that section is or would be applicable for the purposes of the federal Act.

(2) For the purposes of this section, a reference to the Deputy Attorney General of Alberta shall be substituted for any reference to the Deputy Attorney General of Canada in section 126A of the federal Act, but where a collection agreement is entered into, section 126A of the federal Act shall be read without such a reference being substituted.

39. Demand for and filing of information.

40. Penalties for failure to comply with regulations.

41. Signature on returns of corporations.

42. (1) Penalty for failure to file returns.

(2) Penalty for certain offences.

(3) Double penalties avoided.

39. Whether or not he has filed an information return as required by a regulation made under paragraph (d) of subsection (1) of section 117 of the federal Act as it applies by virtue of subsection (2) of section 29 of this Act, every person shall, on demand by registered letter from the Provincial Treasurer, file within such reasonable time as may stipulated in the registered letter, with the Provincial Treasurer such prescribed information return as is designated in the letter.

40. (1) Every person who fails to comply with a regulation made under paragraph (d) or (e) of subsection (1) of section 117 of the federal Act as it applies by virtue of subsection (2) of section 29 of this Act, is liable in respect of each failure to so comply to a penalty of ten dollars a day for each day of default but not exceeding in all two thousand five hundred dollars.

(2) Every person who fails to comply with a regulation made under section 29 or incorporated by reference by virtue of subsection (2) thereof is liable to a penalty of ten dollars a day for each day of default but not exceeding in all two thousand five hundred dollars.

41. A return, certificate or other document made by a corporation under this Act or the regulations shall be signed on its behalf by the president, secretary or treasurer of the corporation or by any other officer or person thereunto duly authorized by the board of directors or other governing body of the corporation.

Offences

42. (1) Every person who fails to file a return as and when required by or under this Act or the regulations is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to a fine of not less than twenty-five dollars for each day of default.

(2) Every person who fails to comply with or contravenes subsection (1) of section 11, subsection (5) of section 35, section 36 or section 37 is guilty of an offence and, in addition to any penalty otherwise provided is liable on summary conviction to

(a) a fine of not less than two hundred dollars and not more than ten thousand dollars, or

(b) both the fine described in clause (a) and imprisonment for a term not exceeding six months.

(3) Where a person is convicted under this section of failing to comply with a provision of this Act or the regulations, he is not liable to pay a penalty imposed under section 18, 35 or 40 for the same failure unless he was assessed for that penalty or that penalty was demanded from him before the information or complaint giving rise to the conviction was laid or made.

43. Penalties for evading the Act or regulations.

44. Discretion of Minister as to proceedings.

45. Penalty for communicating information.

46. Liability of corporation officials.

43. Every person who

- (a) makes, or participates in, assents to or acquiesces in the making of, false or deceptive statements in a return, certificate, statement or answer filed or made as required by or under this Act or a regulation, or
- (b) to evade payment of a tax imposed by this Act, destroys, alters, mutilates, secretes or otherwise disposes of the records or books of account of a taxpayer, or
- (c) makes, or assents to or acquiesces in the making of, false or deceptive entries, or omits, or assents to or acquiesces in the omission, to enter a material particular, in records or books of account of a taxpayer, or
- (d) wilfully, in any manner, evades or attempts to evade, compliance with this Act or payment of taxes imposed by this Act, or
- (e) conspires with any person to commit an offence described by clauses (a) to (d),

is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to

- (f) a fine of not less than twenty-five dollars and not more than ten thousand dollars plus, in an appropriate case, an amount not exceeding double the amount of the tax that should have been shown to be payable or that was sought to be evaded, or
- (g) both the fine described in clause (f) and imprisonment for a term not exceeding two years.

44. Where a collection agreement is entered into and proceedings under section 131 or 132 of the federal Act are taken against any person, the Minister may take or refrain from any action against such person contemplated by section 42 or 43 of this Act, as the case may be.

45. (1) Every person who, while employed in the administration of this Act, communicates or allows to be communicated to a person not legally entitled thereto any information obtained under this Act or allows any such person to inspect or have access to any written statement furnished under this Act is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars.

(2) Where a collection agreement is entered into, this section does not apply to the communication of information between the Minister and the Provincial Treasurer.

46. Where a corporation is guilty of an offence under this Act, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.

47. Minimum penalties mandatory.

48. (1) Application of section 136 of federal Act.

(2) Application of certain references.

49. Collection agreement.

47. Notwithstanding any other statute or law in force at the commencement of this Act, a court has, in any prosecution or proceeding under this Act, no power to impose less than the minimum fine or imprisonment fixed by this Act and the court has no power to suspend sentence.

Procedure and Evidence

48. (1) Section 136 of the federal Act applies *mutatis mutandis* with respect to procedure and evidence relating to an information or complaint under this Act.

(2) Where a collection agreement is entered into, the references in section 136 of the federal Act to an officer of the Department of National Revenue apply under this Act, but where no collection agreement is entered into a reference to an officer of the Department of National Revenue shall be construed as a reference to an officer of the Treasury Department.

PART III

COLLECTION OF TAX

Collection Agreement

49. (1) The Provincial Treasurer, with the approval of the Lieutenant Governor in Council, may, on behalf of the Government of Alberta, enter into a collection agreement with the Government of Canada under which the Government of Canada will collect taxes payable under this Act on behalf of the Government of Alberta and will make payments to the Government of Alberta in respect of the taxes so collected, in accordance with such terms and conditions as the collection agreement prescribes.

(2) The Provincial Treasurer, with the approval of the Lieutenant Governor in Council, may, on behalf of the Government of Alberta, enter into an agreement amending the terms and conditions of a collection agreement entered into under subsection (1).

(3) Where a collection agreement is entered into, the Minister, on behalf of, or as agent for, the Provincial Treasurer, may employ all the powers, and perform all the duties of the Provincial Treasurer or the deputy head under this Act, and exercise any discretion that the Provincial Treasurer or the deputy head has under this Act including the discretion to refuse to permit the production in judicial or other proceedings in Alberta of any document that is not, in the opinion of the Minister, in the interests of public policy to produce.

(4) Where a collection agreement is entered into, the Deputy Minister of National Revenue for Taxation of Canada may

50. (1) Application of payments by Minister.

(2) Relief of taxpayer.

51. Limitation of actions against employers.

52. (1) Relief of taxpayer.

(2) Recovery of over-deductions.

- (a) employ all the powers and perform the duties of the Minister and exercise any discretion that the Minister has under subsection (3) or otherwise under this Act, and
- (b) designate officers of his department to carry out such functions, duties and powers as are similar to those that are exercised by them on his behalf under the federal Act.

Payments on Account

50. (1) A collection agreement may provide that where any payment is received by the Minister on account of tax payable by a taxpayer for a taxation year under this Act, the federal Act or an income tax statute of another agreeing province, or under any two or more such Acts or statutes, the payment so received may be applied by the Minister towards the tax payable by the taxpayer under any such Act or statute in such manner as may be specified in the agreement, notwithstanding that the taxpayer directed that the payment be applied in any other manner or made no direction as to its application.

(2) Any payment or part thereof applied by the Minister in accordance with a collection agreement towards the tax payable by a taxpayer for a taxation year under this Act relieves the taxpayer of liability to pay that tax to the extent of the payment or part thereof so applied.

Deductions at Source

51. Where a collection agreement is entered into and an amount is remitted to the Minister under section 11 on account of the tax of an individual who is resident on the last day of the taxation year in another agreeing province, no action lies for recovery of such amount by that individual.

52. (1) Where a collection agreement is entered into, an individual resident in Alberta on the last day of the taxation year is relieved of liability to pay any tax payable by him under this Act for the taxation year to the extent of any amount deducted or withheld on account of his tax for that year under the income tax statute of another agreeing province.

(2) Where the total amount deducted or withheld on account of tax payable under this Act and under the income tax statute of another agreeing province by an individual resident in Alberta on the last day of the taxation year to whom subsection (1) applies exceeds the tax payable by him under this Act for that year, section 20 of this Act applies in respect of such individual as though the excess were an overpayment under this Act.

53. Enforcement of judgments in other provinces.

54. Repealing section. The operation of these Acts is presently suspended under The Tax Collection Suspension Act, 1957.

55. Coming into force.

Reciprocal Enforcement of Judgments

53. (1) A judgment of a superior court of an agreeing province under that province's income tax statute, including any certificate registered in such superior court in a manner similar to that provided in subsection (2) of section 31, may be enforced in the manner provided in *The Reciprocal Enforcement of Judgments Act, 1958*, and shall be deemed to be a judgment to which that Act applies.

(2) For the purposes of subsection (1), where a judgment of a superior court of an agreeing province is sought to be registered under *The Reciprocal Enforcement of Judgments Act, 1958*, the judgment shall be registered, notwithstanding that it is established that one or more of the provisions of subsection (6) of section 3 of that Act apply.

(3) For the purposes of subsection (1), the Lieutenant Governor in Council may make regulations to enable the enforcement in Alberta of judgments in respect of taxes in agreeing provinces.

PART IV

TRANSITIONAL

54. The following enactments are repealed:

- (a) *The Alberta Corporation Income Tax Act*, being chapter 3 of the Statutes of Alberta, 1947;
- (b) *The Alberta Corporation Income Tax Act, 1949*, being chapter 6 of the Statutes of Alberta, 1949;
- (c) *The Income Tax Act*, being chapter 152 of the Revised Statutes.

55. This Act comes into force on a day to be fixed by Proclamation of the Lieutenant Governor in Council.

NO. 1

SECOND SESSION

FOURTEENTH LEGISLATURE

10 ELIZABETH II

1961

BILL

An Act respecting Income Tax

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. HINMAN
