

No. 22

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5th Session, 14th Legislature, Alberta  
11 Elizabeth II

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## **BILL 22**

A Bill to amend The Alberta Income Tax Act

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HON. MR. HINMAN

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## Explanatory Note

2. (a) Section 4, subsection (3) is amended to set out the taxation rate applicable in the 1964 taxation year as well as in 1962 and 1963.

(b) The proposed addition of subsection (5) to section 4 is intended to allow a tax table to be prescribed so that certain taxpayers in completing returns will not be required to make the percentage computation now required. The taxpayer will merely refer to a table where the proposed tax applicable to him will be set out.

The proposed addition of subsection (6) to section 4 is intended to allow a taxpayer to deduct from his tax an amount on account of tax paid in another country. The purpose of the provision is to allow deduction of an amount equal to the difference between the foreign tax credit the taxpayer was allowed prior to the new Federal-Provincial tax arrangements and the foreign tax credit he is able to claim under the Income Tax Act (Canada) at the present time. The deductible amount includes, where applicable, not only of tax paid in another country on salary and wages but also tax paid in respect of investment and business income.

# BILL

No. 22 of 1963

An Act to amend The Alberta Income Tax Act

(Assented to \_\_\_\_\_, 1963)

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

**1.** *The Alberta Income Tax Act*, being chapter 1 of the Statutes of Alberta 1961 (Second Session) is hereby amended.

**2.** Section 4 is amended

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

(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 as follows:

- (a) sixteen per cent in respect of the 1962 taxation year;
- (b) seventeen per cent in respect of the 1963 taxation year;
- (c) eighteen per cent in respect of the 1964 taxation year.

(b) by adding the following new subsections immediately after subsection (4):

(5) An individual who, under the federal Act, pays tax computed in accordance with subsection (2) of section 32 thereof, may, in lieu of the tax under subsection (1), pay a tax computed in accordance with a prescribed table, which shall be prepared in accordance with the following rules:

- (a) the table shall be divided into ranges of amounts not exceeding ten dollars each and specify the tax payable on every amount taxable within each range; and
- (b) the tax payable on amounts taxable within one of the ranges referred to in clause (a) shall be the amount in dollars and even tenths parts thereof that is nearest the aggregate of the taxes otherwise payable under subsection (1) on the average of the highest and lowest amounts in the range.

(6) Where an individual resided in Alberta on the last day of a taxation year and had income for

**3.** The amendment to subsection (2) of section 22 is intended to set out specifically the grounds on which a taxpayer may appeal an assessment as well as to provide, as the subsection now does, for the limitation of appeals in certain matters.

**4.** The addition of section 31a is intended to provide an alternative procedure for the collection of tax, interest and penalties where the taxpayer has not paid the tax assessed against him under the Act and has not appealed the assessment.

the year that included income earned in a country other than Canada in respect of which any income or profits tax was paid to the government of such other country, he may deduct from the tax payable by him under this Act for that taxation year an amount equal to the lesser of

- (a) the amount, if any, by which the tax paid to the government of such other country in respect of his income for the year exceeds the amount allowed under the federal Act as a deduction for that taxation year by virtue of section 41 of that Act, or
- (b) that proportion of the deduction allowed to the taxpayer for that taxation year by virtue of section 33 of the federal Act that
  - (i) the taxpayer's income earned in such other country for that year  
is of
  - (ii) his income for the year.

**3.** Section 22 is amended by striking out subsection (2) and by substituting the following:

(2) An appeal from an assessment under this Act may be taken in respect of any question relating,

- (a) in the case an individual, to the determination of
  - (i) his residence for the purposes of this Act,
  - (ii) his income earned in the taxation year in Alberta as defined in clause (b) of subsection (4) of section 4, or
  - (iii) the amount of tax payable for a taxation year based on the tax payable under the federal Act for that year as defined in clause (a) of subsection (4) of section 4,
 and
- (b) in the case of a corporation, to the determination of
  - (i) its taxable income earned in the year in Alberta as defined in subsection (3) of section 5, or
  - (ii) the amount of tax payable for a taxation year based on the taxable income of the corporation for that year,

but no appeal from an assessment lies in respect of the computation of the tax payable under the federal Act as defined in clause (a) of subsection (4) of section 4 or of the taxable income of a corporation.

**4.** The following section is added immediately after section 31:

**31a.** The Provincial Treasurer may issue a warrant directed to the sheriff of any judicial district in which any property of the taxpayer is located or situated, for the amount of the tax, interest and penalty, or any of them, owing by the taxpayer, together with interest thereon

5. The amendment to subsection (2) of section 45 is intended to broaden the scope of the exception to the prohibition regarding the communication of information. This will permit the communication of information between the Minister and the various Provincial Treasurers of agreeing provinces as well as the Province of Quebec if an adjusting payment may be made to the latter under section 52a.

6. The amendment to section 48 is intended to put beyond doubt the application of the same procedural and evidentiary rules as are found in section 136 of the Income Tax Act (Canada). There are certain additions that should be noted in subsections (10), clause (b), (15), (17) and (18). Subsection (10), clause (b) is intended to permit judicial notice to be taken on collection agreements. Subsection (15) is to ensure that those documents can be proved without difficulty in an action in a provincial court. Subsection (17) is required by reason of the relationship of the provincial tax to computations made under the Income Tax Act (Canada). Subsection (18) is intended to ensure that documents executed by the collecting agent will be admissible in legal proceedings.

from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant shall have the same force and effect as a writ of execution issued out of the Supreme Court of Alberta.

**5.** Section 45 is amended by striking out subsection (2) and by substituting the following:

(2) Subsection (1) does not apply to the communication of information between

- (a) the Minister and the Provincial Treasurer, or
- (b) the Minister, acting on behalf of Alberta, and the Provincial Treasurer, the Provincial Secretary-Treasurer or the Minister of Finance of the government of
  - (i) an agreeing province, or
  - (ii) a non-agreeing province to which an adjusting payment may be made under subsection (2) of section 52*a*.

**6.** Section 48 is struck out and the following section is substituted:

**48.** (1) An information or complaint under this Act may be laid or made by any officer of the Department of the Provincial Treasurer, by a member of the Royal Canadian Mounted Police or by any person thereunto authorized by the Provincial Treasurer and, where an information or complaint purports to have been laid or made under this Act it shall be deemed to have been laid or made by a person thereunto authorized by the Provincial Treasurer and shall not be called in question for lack of authority of the informant or complainant except by the Provincial Treasurer or by some person acting for him or Her Majesty.

(2) An information or complaint in respect of an offence under this Act may be for one or more offences and no information, complaint, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

(3) An information or complaint in respect of an offence under this Act may be laid or made on or before a day five years from the time when the matter of the information or complaint arose or within one year from the day on which evidence, sufficient in the opinion of the Provincial Treasurer to justify a prosecution for the offence, came to his knowledge, and the Provincial Treasurer's certificate as to the day on which such evidence came to his knowledge is conclusive proof thereof.

(4) Where, by this Act or a regulation, provision is made for sending by mail a request for information, notice or demand, an affidavit of an officer of the Department of the Provincial Treasurer sworn before a commissioner



or other person authorized to take affidavits setting out that he has charge of the appropriate records, that he has knowledge of the facts in the particular case, that such a request, notice or demand was sent by registered letter on a named day to the person to whom it was addressed, indicating such address, and that he identifies as exhibits attached to the affidavit the post office certificate of registration of the letter or a true copy of the relevant portion thereof and a true copy of the request, notice or demand, is admissible in evidence as *prima facie* proof of the sending and of the request, notice or demand.

(5) Where, by this Act or a regulation, a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Department of the Provincial Treasurer, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that after a careful examination and search of the records he has been unable to find in a given case that the return, statement, answer or certificate, as the case may be, has been made by such person, is admissible in evidence as *prima facie* proof that in such case that person did not make the return, statement, answer or certificate, as the case may be.

(6) Where, by this Act or a regulation, a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Department of the Provincial Treasurer, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that after careful examination of such records he has found that the return, statement, answer or certificate was filed or made on a particular day, is admissible in evidence as *prima facie* proof that it was filed or made on that day and not prior thereto.

(7) An affidavit of an officer of the Department of the Provincial Treasurer, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that a document annexed thereto is a document or true copy of a document made by or on behalf of the Provincial Treasurer or some person exercising the powers of the Provincial Treasurer or by or on behalf of a taxpayer, shall be received as *prima facie* evidence of the nature and contents of the document and is admissible in evidence and has the same probative force as the original document would have if it had been proven in the ordinary way.

(8) An affidavit of an officer of the Department of the Provincial Treasurer, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and has knowledge of the practice of the Department and that an examination of the records shows that a notice of assessment for a particular taxation year was mailed or otherwise communicated to a taxpayer on a particular day pursuant to this Act and



that, after careful examination and search of the records, he has been unable to find that a notice of objection or of appeal from the assessment was received within the time allowed therefor, is admissible in evidence as *prima facie* proof of the statements contained therein.

(9) Where evidence is offered under this section by an affidavit from which it appears that the person making the affidavit is an officer of the Department of the Provincial Treasurer, it is not necessary to prove his signature or that he is such an officer nor is it necessary to prove the signature or official character of the person before whom the affidavit was sworn.

(10) Judicial notice shall be taken of

- (a) all orders or regulations made under this Act, and
- (b) a collection agreement entered into under this Act or any agreement for the collection by Canada of the tax imposed under the income tax statute of an agreeing province

without such orders, regulations or agreements being specially pleaded or proven.

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

(12) For the purposes of this Act, the day of mailing of any notice of assessment or notification described in subsection (4) of section 10 shall, in the absence of any evidence to the contrary, be deemed to be the day appearing from such notice or notification to be the date thereof unless called in question by the Provincial Treasurer or by some person acting for him or Her Majesty.

(13) Where any notice of an assessment has been sent by the Provincial Treasurer as required by this Act, the assessment shall be deemed to have been made on the day of mailing of the notice of the assessment.

(14) Every form purporting to be a form prescribed or authorized by the Provincial Treasurer shall be deemed to be a form prescribed by order of the Provincial Treasurer under this Act unless called in question by the Provincial Treasurer or some person acting for him or for Her Majesty.

(15) A document purporting to be a collection agreement entered into under this Act or an agreement with Canada

**7.** The proposed addition of section 52a respecting non-agreeing provinces is intended to permit a transfer to a non-agreeing province of an amount equal to the amount of deductions at source made from persons who were resident in the province during the taxation year but who became resident in the non-agreeing province before the last day of that year. This would be made only in a case where the non-agreeing province had legislation permitting a similar payment in respect of persons resident on the last day of the year in the province who had previously been resident during the taxation year in the non-agreeing province.

for the collection of tax imposed under the income statute of an agreeing province that is

- (a) published in the *Canada Gazette*, or
- (b) certified as such by or on behalf of
  - (i) the Provincial Treasurer, or
  - (ii) the Provincial Treasurer, the Provincial Secretary-Treasurer or the Minister of Finance of the appropriate agreeing province,

is admissible in evidence as *prima facie* proof of the contents thereof.

(16) In any prosecution for an offence under this Act, the production of a return, certificate, statement or answer required by or under this Act or a regulation purporting to have been filed or delivered by or on behalf of the person charged with the offence or to have been made or signed by him or on his behalf is admissible in evidence as *prima facie* proof that such return, certificate, statement or answer was filed or delivered by or on behalf of that person or was made or signed by him or on his behalf.

- (17) Every certificate by the Provincial Treasurer as to
- (a) a taxpayer's tax payable under the federal Act as defined in clause (a) of subsection (4) of section 4,
  - (b) a taxpayer's income for the year as defined in clause (d) of subsection (4) of section 4, or
  - (c) the taxable income of a corporation,

is admissible in evidence as *prima facie* proof that a taxpayer's tax payable under the federal Act, his income for the year or the taxable income of a corporation, as the case may be, is in the amount set out therein.

(18) Where a collection agreement is entered into, any document or certificate that is executed or issued by the Minister, the Deputy Minister of the Department of National Revenue for Taxation, or an official of the Department of National Revenue on behalf or in place of the Provincial Treasurer, his deputy or an officer of his Department, shall be deemed, for all purposes of this Act, to be executed or issued by the Provincial Treasurer, his deputy or an officer of his Department, as the case may be.

7. The following heading and section are added immediately after section 52:

#### Non-agreeing Provinces

- 52a.** (1) In this section,
- (a) "adjusting payment" means a payment, calculated in accordance with this section, made by or on the direction of Alberta to a non-agreeing province;
  - (b) "amount deducted or withheld" does not include any refund made in respect of that amount;
  - (c) "non-agreeing province" means a province that is not an agreeing province.



(2) Where, in respect of a taxation year, a non-agreeing province is authorized to make a payment to Alberta that, in the opinion of the Provincial Treasurer, corresponds to an adjusting payment, the Lieutenant Governor in Council may authorize the Provincial Treasurer to make an adjusting payment to that non-agreeing province and enter into any agreement that may be necessary to carry out the purposes of this section.

(3) Where a collection agreement is entered into, the adjusting payment that may be made pursuant to subsection (2) may be made by the Government of Canada where it has agreed to act on the direction of Alberta as communicated by the Provincial Treasurer to the Minister.

(4) The adjusting payment to be made under this section shall be in an amount that is equal to the aggregate of the amounts deducted or withheld under section 11 in respect of the tax payable for a taxation year by individuals who

- (a) file returns under the federal Act,
- (b) are taxable thereunder in respect of that year, and
- (c) are resident on the last day of that year in the non-agreeing province to which the adjusting payment is to be made.

(5) Where an adjusting payment is to be made and there has been an amount deducted or withheld under section 11 on account of the tax for a taxation year of an individual who is taxable under the federal Act in respect of that year and who is resident on the last day of that taxation year in the non-agreeing province,

- (a) no action lies for the recovery of such amount by that individual, and
- (b) the amount may not be applied in discharge of any liability of that individual under this Act.

(6) Where an adjusting payment to a non-agreeing province is to be made under this section for a taxation year, an individual resident in Alberta on the last day of the taxation year is not required to remit any amount on account of tax payable by him under this Act for the taxation year to the extent of the amount deducted or withheld on account of his income tax for that year under the law of that non-agreeing province.

(7) Where an adjusting payment to a non-agreeing province is to be made under this section for a taxation year and the total amount deducted or withheld on account of tax payable under this Act and on account of the income tax payable under the law of the non-agreeing province by an individual resident in Alberta on the last day of the taxation year to whom subsection (6) 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.



(8) Where a collection agreement is entered into and the Government of Canada has agreed in respect of a taxation year to carry out the direction of Alberta and to make an adjusting payment on behalf of Alberta, the adjusting payment

(a) shall be made out of any moneys that have been collected on account of tax under this Act for any taxation year, and

(b) shall be the amount calculated by the Minister to be the amount required to be paid under subsection (4),

and the payment thereof discharges any obligation the Government of Canada may have with respect to the payment to Alberta of any amount deducted or withheld under section 11 to which subsection (5) applies.

(9) This section is applicable to the 1963 and subsequent taxation years.

8. This Act comes into force on the day upon which it is assented to and upon so coming into force clause (b) of section 2 shall be deemed to have been in force at all times on and after the first day of January, 1962.

No. 22

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FIFTH SESSION

FOURTEENTH LEGISLATURE

11 ELIZABETH II

1963

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**BILL**

An Act to amend The Alberta  
Income Tax Act

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Received and read the

First time .....

Second time .....

Third time .....

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HON. MR. HINMAN

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