

1967 Bill 6

Fifth Session, 15th Legislature, 15 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 6

**An Act to Provide for Partial Refunds of Estate Taxes
to Alberta Estates**

THE PROVINCIAL TREASURER

First Reading

Second Reading

Third Reading

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An Act to Provide for Partial Refunds of Estate Taxes
to Alberta Estates

(Assented to _____, 1967)

WHEREAS an estate tax is payable to the Government of Canada by the estates of deceased persons based on the value of the property passing on the death; and

WHEREAS the Government of Alberta receives from the Government of Canada a share of the estate tax so payable by Alberta estates; and

WHEREAS a general benefit to the Province would be realized by returning to those Alberta estates the Government of Alberta's share of the estate tax payable:

THEREFORE, 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 Estate Tax Rebate Act*.
2. (1) In this Act,
 - (a) "Administrator" means the Administrator of this Act appointed pursuant to section 15;
 - (b) "executor" includes an administrator and a judicial trustee appointed under *The Trustee Act*;
 - (c) "*Estate Tax Act*" means the *Estate Tax Act* (Canada) as amended from time to time.(2) Except where the context otherwise requires, words and phrases used in this Act have the same meaning as they have under the *Estate Tax Act*.
3. An estate tax rebate is payable under this Act only in respect of the estate tax on the estate of a person dying on or after the first day of April, 1967,
 - (a) who was domiciled in Alberta at the time of his death, or
 - (b) who was domiciled elsewhere in Canada at the time of his death but had resided in Alberta for a total of at least 183 days
 - (i) in each of the three years immediately preceding his death, or

Explanatory Notes

1. The purpose of this Bill is to give effect to the resolution passed by the Legislative Assembly on April 6, 1966, by providing a partial refund of estate taxes to relieve the tax burden on Alberta estates and to encourage investment in Alberta.

2. Definitions.

3. Estates eligible to receive estate tax rebates.

- (ii) in each of such greater number of years immediately preceding his death as may be prescribed by the regulations.

4. (1) The estate tax rebate in respect of the estate tax on the estate of a deceased person to whom clause (a) of section 3 refers shall, subject to this Act, be paid by the Provincial Treasurer in an amount equal to 75 per cent of the estate tax payable that is applicable to

- (a) any property situated in Alberta and passing on the death of that person, and
- (b) any property (other than real property) situated outside Canada and passing on the death of that person to a person domiciled or resident in Alberta.

(2) The estate tax rebate in respect of the estate tax on the estate of a person to whom clause (b) of section 3 refers shall, subject to this Act, be paid by the Provincial Treasurer in an amount equal to 75 per cent of the estate tax payable that is applicable to any property situated in Alberta and passing on the death of that person.

(3) No amount is payable as an estate tax rebate in respect of any interest or penalty paid or payable under the *Estate Tax Act*.

5. The right to receive estate tax rebates is dependant upon the Government of Canada paying to the Government of Alberta under the *Federal-Provincial Fiscal Arrangements Act* (or any legislation substituted therefor) amounts representing a portion of the estate taxes payable by the estates in respect of which estate tax rebates are claimed, and

- (a) if the payments to the Government of Alberta cease to be made, or
- (b) if the rate at which the payments are calculated is increased or decreased, or
- (c) if the classes of property in respect of which the payments are made are reduced or restricted,

a similar change shall be deemed to be made in the relevant provisions of this Act.

6. (1) For the purposes of this Act

- (a) the domicile of a person,
- (b) the property passing on the death of a person,
- (c) the valuation of property,
- (d) the situs of property, and
- (e) the part of the estate tax payable that is applicable to any property,

shall be determined as those matters are determined for the purposes of the *Estate Tax Act*.

4. Amount of estate tax rebate.

5. Payment of rebates is dependant upon the Province receiving a share of the estate taxes levied by the federal Government.

6. Matters shall be determined for rebate purposes on the same basis as they are determined for estate tax purposes.

(2) Except as otherwise provided in this Act or the regulations, where a decision, finding or determination on any matter has been made under the *Estate Tax Act* for estate tax purposes, that decision, finding or determination is final and conclusive for all purposes in connection with estate tax rebates.

7. (1) Any estate tax rebate payable shall be paid to the executor of the estate of the deceased person in respect of whose property the estate tax is payable, except where the part of the estate tax that is applicable to any property passing on the death

- (a) has been paid by a successor to the property, or
- (b) is under the *Estate Tax Act* payable by the successor to the property by reason of it being property passing to him without coming under the control of the executor of the estate of the deceased person,

in which case any estate tax rebate payable in respect thereof may be paid to the successor to the property.

(2) The payment of an estate tax rebate in respect of any estate tax

- (a) the executor of an estate, or
- (b) to a successor to property,

who appears to the Administrator to be entitled thereto discharges the Government of Alberta from any further liability for the payment of an estate tax rebate in respect of that estate tax, and any other person claiming to be entitled to that rebate, or any part thereof, shall enforce his claim against the executor or successor to whom it was paid.

8. The Provincial Treasurer may deduct from an estate tax rebate payable to

- (a) the executor of an estate, or
- (b) the successor to any property,

the amount of any debt due from the estate or the successor, as the case may be, to the Government of Alberta and apply the amount so deducted to the satisfaction of the debt.

9. (1) An estate tax rebate is payable in respect of an estate only upon application therefor to the Administrator made within 90 days of the date the Minister of National Revenue sends a notice of assessment of the estate tax payable in respect of that estate.

(2) An application for an estate tax rebate may be made by any person to whom the estate tax rebate may be paid under this Act.

(3) An applicant for an estate tax rebate shall provide the Administrator with such information as the Administrator requires to determine

7. To whom rebate is payable.

8. Debts due to the Province may be deducted from rebate.

9. Manner of application for rebate.

- (a) whether an estate tax rebate is payable, and
- (b) the amount of any estate tax rebate payable and to whom it is payable.

10. An estate tax rebate may not be paid before the amount of estate tax payable has been assessed or before the time allowed for objections to and appeals from the assessment has expired or, where an objection or appeal has been made, before the objection or appeal has been finally determined.

11. (1) The Administrator shall, as soon as possible after receipt of all information required by him from any applicant, notify the applicant whether or not the applicant is entitled to an estate tax rebate and the amount thereof, if any.

(2) The notice shall be sent to the applicant at the address set forth in the application.

12. (1) An applicant for an estate tax rebate who is aggrieved by a decision of the Administrator affecting the right to a rebate or the amount of rebate payable may, within 90 days of the date the decision is mailed to him, appeal to the Supreme Court by originating notice of motion.

(2) Subject to section 6,

- (a) on hearing the appeal, the Court may confirm, vary or reverse the decision of the Administrator on any or all of the matters in issue under this Act, and
- (b) the decision of the Court or of the Appellate Division of the Supreme Court on a further appeal thereto, is final and is binding upon the Government of Alberta and all other persons.

13. (1) Where after an estate tax rebate has been paid pursuant to this Act, the amount of estate tax payable is reassessed pursuant to the *Estate Tax Act*,

- (a) if the amount of the estate tax rebate paid on the basis of the original assessment is less than the amount payable as calculated on the basis of the reassessment, an estate tax rebate in the amount of the difference may be paid upon application therefor in accordance with this Act, or
- (b) if the amount of the estate tax rebate paid on the basis of the original assessment is more than the amount payable as calculated on the basis of the reassessment, the amount of the difference is a debt due to the Government of Alberta and is recoverable by action from the estate or person who received the benefit of the overpayment.

10. When rebate payable.

11. Applicant to be informed of decision as soon as possible.

12. Right to appeal decision to the Supreme Court.

13. Under or overpayment of rebate.

(2) On any appeal under section 12 the Government of Alberta may cross-appeal for the recovery of any debt due it by the applicant pursuant to clause (b) of subsection (1).

14. The moneys payable by the Provincial Treasurer as estate tax rebates are a charge upon and shall be paid out of the General Revenue Fund of the Province without any further or other appropriation.

15. (1) The Provincial Treasurer is charged with the administration of this Act.

(2) Subject to *The Public Service Act, 1962*, there may be appointed an Administrator and such other employees as are required to carry out the administration of this Act.

16. The Provincial Treasurer may make regulations

- (a) prescribing, subject to the approval of the Lieutenant Governor in Council,
 - (i) the number of years in which residence is required under subclause (ii) of clause (b) of section 3, and
 - (ii) what constitutes being resident in Alberta for the purposes of clause (b) of subsection (1) of section 4,
- (b) prescribing the information to be provided by applicants for an estate tax rebate,
- (c) governing the manner of verifying such information,
- (d) prescribing forms to be used on applications for estate tax rebates,
- (e) prescribing a tariff of fees payable with respect to processing estate tax rebates,
- (f) providing for the exchange of information
 - (i) with the Government of Canada, including in particular the exchange of information pursuant to subsection (1) of section 56 of the *Estate Tax Act*, and
 - (ii) with the government of any other province, on matters relating to estate taxes and estate tax rebates, and
- (g) respecting such other matters as he considers necessary or desirable for the administration of this Act in accordance with its intent.

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

14. Rebates are a charge on the General Revenue Fund.

15. Administration of Act.

16. Regulations.