

1972 Bill 47

First Session, 17th Legislature, 21 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 47

The Alberta Income Tax Amendment Act, 1972

THE PROVINCIAL TREASURER

First Reading

Second Reading

Third Reading

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BILL 47

1972

THE ALBERTA INCOME TAX AMENDMENT ACT, 1972

(Assented to _____, 1972)

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

1. *The Alberta Income Tax Act is hereby amended.*

2. *Section 2, subsection (1) is amended by striking out clauses 18 and 20.*

3. *Section 3 is amended*

(a) *as to subsection (1) by striking out the words "other than an individual to whom subsection (2) applies," and*

(b) *by striking out subsection (2).*

4. *Section 4 is amended*

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

(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

(a) 33 per cent in respect of the 1970 and the 1971 taxation years;

(b) 36 per cent in respect of the 1972 and subsequent taxation years.

(b) *as to subsection (4) by striking out clauses (c), (d) and (e) and by substituting therefor the following clauses:*

(c) "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 114 of the federal Act applies, the aggregate of

Explanatory Notes

1. This Bill will amend chapter 182 of the Revised Statutes of Alberta 1970.

This Bill will bring The Alberta Income Tax Act into conformity with the federal income tax legislation.

2. Section 2, subsection (1), clauses 18 and 20 read:

2. (1) In this Act,

18. "member of the Canadian Forces" means a member as defined for the purposes of Part XXIII of the federal regulations;

20. "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;

3. Section 3, subsections (1) and (2) read:

3. (1) An income tax shall be paid as hereinafter required for each taxation year by every individual, other than an individual to whom subsection (2) applies,

(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 section 4, subsection (4), clause (a).

(2) An income tax shall be paid as hereinafter required for each taxation year by every individual who, during the taxation year, was a member of the Canadian Forces to whom section 6 applies.

4. Section 4, subsections (3), (4) and (6) read:

(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 33 per cent in respect of the 1970 and subsequent taxation years.

(4) In this section,

(a) "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 section 33, subsection (3), paragraph (a) of the federal Act;

(b) "income earned in the taxation year outside Alberta" means income for the year minus income earned in the taxation year in Alberta;

(c) "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,

- (A) his income for the period or periods in the year referred to in section 114, paragraph (a) of the federal Act as determined in accordance with and for the purposes of the federal Act, and
 - (B) his income for the portion of that year that is not included in the period or periods referred to in paragraph (A), computed under section 115, subsection (1), paragraphs (a), (b) and (c) of the federal Act as though such portion of the year were the whole taxation year,
- (ii) in the case of an individual not resident in Canada at any time in the taxation year, his income for the year as computed under section 115, subsection (1), paragraphs (a), (b) and (c) 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;
- (d) "tax payable under the federal Act" means the amount that, but for section 120 of the federal Act, would be the tax payable by a taxpayer under Part I of that Act for the taxation year in respect of which the expression is being applied computed as if the taxpayer were not entitled to any deduction under section 126 or 127 of that Act;

and

- (c) *by striking out subsection (6) and by substituting therefor the following subsections:*

(6) Where an individual resided in Alberta on the last day of a taxation year and had income for the year that included income earned in a country other than Canada in respect of which any non-business-income tax was paid by him to the government of a country other than Canada, 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 any non-business-income tax paid by him for the year to the government of such other country exceeds the amount claimed under the federal Act as a deduction for that taxation year by virtue of section 126, subsection (1) of that Act, or

- (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;
 - (d) "individual" does not include an individual who was a member of the Canadian Forces during a taxation year and to whom section 6 applies;
 - (e) "tax payable under the federal Act" means the amount of tax payable under Part I of the federal Act for the taxation year in respect of which that expression is being applied, minus any amount included in computing that amount by virtue of section 10, subsection (3) 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.
- (6) Where an individual resided in Alberta on the last day of a taxation year and had income for 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, subsection (1) 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.

(b) that proportion of the tax otherwise payable under this Act for that taxation year that

(i) the aggregate of the taxpayer's income from sources in that country

(A) for that year, if section 114 of the federal Act is not applicable, or

(B) if section 114 of the federal Act is applicable, for the period or periods in the year referred to in paragraph (a) thereof,

on the assumption that no businesses were carried on by him

is of

(ii) the taxpayer's income

(A) for the year, if section 114 of the federal Act is not applicable, or

(B) if section 114 of the federal Act is applicable, for the period or periods in the year referred to in paragraph (a) thereof,

minus any amounts deductible under section 111, subsection (1), paragraph (b) or section 112 or 113 of the federal Act for the year or such period or periods, as the case may be.

(7) For the purposes of subsection (6), the non-business-income tax paid by an individual to the government of a country other than Canada in respect of his income for a year is the non-business-income tax paid by him to the government of that country in respect of that year as computed under section 126, subsection (7), paragraph (c) of the federal Act for the purposes of that Act.

5. Section 5 is amended by striking out subsection (3) and by substituting therefor the following subsection:

(3) Where the income for a taxation year of a corporation that maintained a permanent establishment in Alberta at any time in the taxation year includes income described in section 12, subsection (1), paragraph (b), subparagraph (i) of the federal Act from sources in a country other than Canada (in this section referred to as "foreign investment income") and where the corporation has claimed a deduction under section 126, subsection (1) of the federal Act in respect of the foreign investment income, the corporation may deduct from the tax for the year otherwise payable under this Act an amount equal to the lesser of

5. Corporate foreign investment income. Section 5, subsection (3) reads:

(3) Where there has been included in computing the income for a taxation year of a corporation that maintained a permanent establishment in Alberta at any time in the taxation year amounts received by the corporation in the year as dividends, interest, rents or royalties that were derived from sources in a country other than Canada (in this section referred to as "foreign investment income") and where the corporation is entitled to a deduction under section 41 of the federal Act in respect of the foreign investment income, the corporation may deduct from the tax for the year otherwise payable under this Act an amount equal to the lesser of,

(a) eleven per cent of the product of

(i) the foreign investment income of the corporation for the year minus amounts that are deductible under section 28, subsection (1), paragraph (d) of the federal Act that were included in its foreign investment income for that year, and

(ii) that proportion of the taxable income earned in the year by the corporation that is determined to have been earned in the year in Alberta in accordance with regulations made under section 10, subsection (2) of the federal Act,

or

(b) that proportion of the amount of the deduction from the tax for the year otherwise payable by the corporation under Part I of the federal Act that would be permitted under section 41, subsection (1) or (1a) of that Act if subsection (1a), paragraph (b), subparagraph (ii) and subsection (5) of that section did not contain a reference to section 40 of that Act minus the amount of such deduction permitted by either subsection (1) or (1a) of section 41 of that Act that

(i) the taxable income earned in the year in Alberta by the corporation as determined in accordance with regulations made under section 40, subsection (2) of the federal Act

is of

(ii) the aggregate of the taxable income earned in the year in each province by the corporation as determined in accordance with regulations made under section 40, subsection (2) of the federal Act.

- (a) 10 per cent of the product of
 - (i) the foreign investment income of the corporation for the year from sources in the country, and
 - (ii) that proportion of the taxable income earned in the year by the corporation that is determined to have been earned in the year in Alberta in accordance with regulations made under section 124, subsection (4), paragraph (a) of the federal Act,or
- (b) that proportion of the amount of the deduction from the tax for the year otherwise payable by the corporation under Part I of the federal Act that would be permitted under section 126, subsection (1) of that Act if the reference to section 124, subsection (2) set out in section 126, subsection (7), paragraph (d), subparagraph (i) of that Act were read as section 124 of that Act minus the amount of the deduction claimed by the corporation under section 126, subsection (1) of the said Act, that
 - (i) the taxable income earned in the year in Alberta by the corporation as determined in accordance with regulations made under section 124, subsection (4), paragraph (a) of the federal Actis of
 - (ii) the aggregate of the taxable income earned in the year in each province by the corporation as determined in accordance with regulations made under section 124, subsection (4), paragraph (a) of the federal Act.

6. *Section 6 is struck out.*

7. *Section 9 is amended by striking out subsection (4) and by substituting therefor the following subsection:*

(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 of the taxpayer's income as a member of the partnership or as a proprietor of the business, 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 under this Part shall be paid on the taxpayer's income as such member or proprietor after the close of the fiscal period to the time of death as if that income were the income of another person.

6. The section dealing with members of the Canadian Forces is struck out.

7. Section 9, subsection (4) reads:

(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.

8. Section 11 is amended

(a) by striking out subsection (4) and by substituting therefor the following subsections:

(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 some person filing the return

(i) has made any misrepresentation that is attributable to neglect, carelessness or wilful default or has 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 or of a notification that no tax is payable for a taxation year,

and

(b) within four years from the day referred to in clause (a), subclause (ii) in any other case, reassess or make additional assessments or assess tax, interest or penalties as the circumstances require.

(4.1) Notwithstanding subsection (4), there shall not be included in computing the income of a taxpayer, for the purposes of any reassessment, additional assessment or assessment of tax, interest or penalties that is made after the expiration of four years from the day referred to in subsection (4), clause (a), subclause (ii), any amount that was not included in computing his income for the purposes of an assessment of tax made before the expiration of four years from that day and

(a) in respect of which the taxpayer establishes that the failure so to include it did not result from any misrepresentation that is attributable to neglect, carelessness or wilful default or from any fraud in filing a return of his income or in supplying any information under this Act, or

(b) that the taxpayer establishes cannot reasonably be regarded as relating to a matter specified in a waiver filed by the taxpayer with the Provincial Treasurer, in the form and with-

8. Assessments. Section 11, subsections (4) and (6) read:

(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 or of a notification that no tax is payable for a taxation year,

and

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

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

(6) Where a taxpayer has filed the return required by section 9 for a taxation year and, within one year from the day on or before which he was required by section 9 to file the return for that year, has filed an amended return for the year claiming a deduction from income under section 27, subsection (1), paragraph (e) 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.

in the time referred to in subsection (4), with respect to a taxation year to which the reassessment, additional assessment or assessment of tax, interest or penalties, as the case may be, relates.

and

(b) *by striking out subsection (6) and by substituting therefor the following subsection:*

(6) Where a taxpayer has filed the return required by section 9 for a taxation year and, within one year from the day on or before which he was required by section 9 to file the return for that year, has filed an amended return for the year claiming a deduction from income under section 111 of the federal Act in respect of non-capital losses, net capital losses or restricted farm losses sustained in the taxation year immediately following that year, the Provincial Treasurer shall reassess the taxpayer's tax for the year.

9. Section 18 is amended by striking out subsections (1) and (2) and by substituting therefor the following subsections:

18. (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 at the rate per annum prescribed for the purposes of section 161, subsection (1) of the federal Act on the difference between those two amounts from the expiration of the time for filing the return to the day of payment.

(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 the rate per annum prescribed for the purposes of section 161, subsection (1) of the federal Act 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 is liable to pay interest thereon under subsection (1), whichever is earlier.

10. Section 20 is renumbered as subsection (1) and the following subsections are added thereafter:

9. Payment of interest. Section 18, subsections (1) and (2) read:

18. (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.

10. A penalty will be authorized for tax evasion by failure to file returns as required.

(2) Every person who wilfully attempts to evade payment of the tax payable by him by failing to file a return of income as and when required by section 9, subsection (1) is liable to a penalty of 50 per cent of the amount of tax sought to be evaded.

(3) Where, in any appeal under this Act, a penalty assessed by the Provincial Treasurer under this section is in issue, the burden of establishing the facts justifying the assessment of the penalty is on the Provincial Treasurer.

11. Section 21 is amended

(a) *as to subsection (3) by striking out the words "the rate of three per cent per annum" and by substituting therefor the words "the rate per annum prescribed for the purposes of section 164, subsection (3) of the federal Act",*

(b) *by striking out subsection (4) and by substituting therefor the following subsection:*

(4) Where, by a decision of the Provincial Treasurer under section 22 or by a decision of the court or of 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 11 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 the rate per annum prescribed for the purposes of section 161, subsection (1) of the federal Act instead of that prescribed for the purposes of section 164, subsection (3) of the federal Act.

and

(c) *by adding after subsection (7) the following subsection:*

(8) Where, in the course of administering the estate of a deceased taxpayer, the taxpayer's legal representative has, within the 12-month period immediately following the death of the taxpayer, disposed of certain property of the estate described in section 164, subsection (6), paragraphs (a) or (b) of the federal Act, section 164, subsection (6) of the federal Act is applicable with all necessary modifications.

11. Refunds of overpayments. Section 21, subsections (3) and (4) read:

(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 22 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 11 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.

12. Section 22 is amended

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

(3) Upon receipt of a notice of objection, the Provincial Treasurer shall,

(a) where the taxpayer indicates in the notice of objection that he wishes to appeal immediately to the court and that he waives reconsideration of the assessment and the Provincial Treasurer consents, file a copy of the notice of objection with the clerk of the court of the judicial district in which the taxpayer resides, or

(b) with all due dispatch, reconsider the assessment and vacate, confirm or vary the assessment or reassess,

and he shall thereupon notify the taxpayer of his action by registered mail.

(3.1) Where the Provincial Treasurer files a copy of a notice of objection pursuant to subsection (3), clause (a), the Provincial Treasurer shall be deemed, for the purpose of section 23, to have confirmed the assessment to which the notice relates and the taxpayer who served the notice shall be deemed to have thereupon instituted an appeal in accordance with that section.
and

(b) *by adding after subsection (4) the following subsection:*

(5) Where a taxpayer has served a notice of objection to an assessment in accordance with this section and thereafter the Provincial Treasurer reassesses the taxpayer's tax for the taxation year in respect of which the notice of objection was served or issues an additional assessment in respect thereof, and notifies the taxpayer of his action by registered mail, the taxpayer may, without serving a notice of objection to the reassessment or the additional assessment,

(a) appeal therefrom to the court in accordance with section 23, or

(b) if an appeal to the court has been instituted with respect to the assessment, amend such appeal by joining thereto an appeal in respect of the reassessment or additional assessment in such manner and on such terms, if any, as the court directs.

12. Notice of objection. Section 22 (3) reads:

(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.

13. *Section 37 is amended*

- (a) *as to subsection (6) by striking out all that portion of the subsection after clause (b) and by substituting therefor the following words:*

“together with interest thereon at the rate per annum prescribed for the purposes of section 227, subsection (8) of the federal Act.”,
and

- (b) *by striking out subsection (7) and by substituting therefor the following subsection:*

(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 10 per cent of that amount or \$10, whichever is the greater, in addition to the amount itself, together with interest on the amount at the rate per annum prescribed for the purposes of section 227, subsection (8) of the federal Act, 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 section 227, subsection (9) of the federal Act by reason of the failure to pay an amount described in paragraph (a) of that subsection.

14. *Section 39 is amended*

- (a) *as to subsection (1) by striking out clause (d) and by substituting therefor the following clause:*

(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 documents, books, records, papers or things that may be required as evidence as to the violation of any provision of this Act or a regulation.

- (b) *by adding after subsection (1) the following subsection:*

(1.1) The Provincial Treasurer shall,

(a) within 120 days from the date of seizure of documents, books, records, papers or things pursuant to subsection (1), clause (d), or

(b) if within that time an application is made under this subsection that is, after the expiry of that time, rejected, then forthwith upon the disposition of the application,

return the documents, books, records, papers or things to the person from whom they were seized unless a judge of the court or a district court, on

13. Penalties for failure to deduct or remit. Section 37, subsections (6) and (7) read:

(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 12 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) 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 section 123, subsection (9) of the federal Act by reason of a failure to pay an amount described in paragraph (a) of that subsection.

14. Power to enter, examine and seize and procedure for inquiries. Section 39 reads:

39. (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.

application made by or on behalf of the Provincial Treasurer supported by evidence on oath establishing that the Provincial Treasurer has reasonable and probable grounds to believe that there has been a violation of this Act or a regulation and that the seized documents, books, records, papers or things are or may be required as evidence in relation thereto, orders that they be retained by the Provincial Treasurer until they are produced in any court proceedings which order the judge hereby is empowered to give on ex parte application.

(c) *by striking out subsection (3) and by substituting therefor the following subsections:*

(3) Where the Provincial Treasurer has reasonable and probable grounds to believe that a violation of this Act or a regulation has been committed or is likely to be committed, he may, with the approval of a judge of the court or of a district court, which approval the judge is hereby empowered to give on ex parte application, authorize in writing any officer of the Treasury Department, together with such members of the Royal Canadian Mounted Police or other peace officers as he calls on to assist him and such other 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 that may afford evidence as to the violation of any provision of this Act or a regulation 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.

(3.1) An application to a judge under subsection (3) shall be supported by evidence on oath establishing the facts upon which the application is based.

(3.2) The person from whom any documents, books, records, papers or things seized pursuant to subsection (1), clause (d) or subsection (3) is, at all reasonable times and subject to such reasonable conditions as may be determined by the Provincial Treasurer, entitled to inspect the seized documents, books, records, papers or things and to obtain copies thereof at his own expense.

(d) *by adding after subsection (4) the following subsection:*

(4.1) Where the Provincial Treasurer, pursuant to subsection (4), authorizes a person to make an inquiry, the Minister shall forthwith apply to the court for an order appointing a hearing officer before whom the inquiry will be held.

and

(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 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.

(e) by striking out subsection (8) and by substituting therefor the following subsections:

(8) For the purposes of an inquiry authorized under subsection (4), a hearing officer appointed under subsection (4.1) in relation thereto has all the powers and authorities conferred on a commissioner appointed under *The Public Inquiries Act*.

(9) A hearing officer appointed under subsection (4.1) in relation to an inquiry shall exercise the powers and authorities conferred on a commissioner appointed under *The Public Inquiries Act* in relation to such persons as the person authorized to make the inquiry considers appropriate for the conduct thereof but the hearing officer shall not exercise the powers to punish any person unless, on application by the hearing officer, a judge of the court or a district court certifies that such power may be exercised in the matter disclosed in the application and the applicant has given to the person in respect of whom he proposes to exercise such power 24 hours' notice of the hearing of the application or such shorter notice as the judge considers reasonable.

(10) Any person who gives evidence in an inquiry authorized under subsection (4) is entitled to be represented by counsel and, upon request made by him to the Provincial Treasurer, to receive a transcript of the evidence given by him.

(11) Any person whose affairs are investigated in the course of an inquiry authorized under subsection (4) is entitled to be present and to be represented by counsel throughout the inquiry unless the hearing officer appointed under subsection (4.1) in relation to the inquiry, on application by the Provincial Treasurer or a person giving evidence orders otherwise in relation to the whole or any part of the inquiry on the ground that the presence of the person and his counsel, or either of them, would be prejudicial to the effective conduct of the inquiry.

15. Section 45 is amended by striking out clause (f) and by substituting therefor the following clause:

(f) a fine of not less than 25 per cent and not more than double the amount of the tax that was sought to be evaded, or

16. The provisions of the Act set out in Column I of the Schedule to this Act are amended in the manner and to the extent indicated in the Schedule.

15. The penalty for offences under the Act will be changed.
Section 45 reads:

45. 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.

16. Cross-references to the federal Act will be amended to conform to federal amendments.

17. This Act comes into force on the day upon which it is assented to and upon so coming into force shall be deemed to have been in force at all times on and after January 1, 1972 and shall apply to the 1972 and subsequent taxation years.

SCHEDULE
(Amendments)

Column I	Column II	Column III
Provision of The Alberta Income Tax Act	Section, etc. of Federal Income Tax Act that is referred to in Alberta Act	The reference is amended to read
section 2, subsection (1), clause 16	section 63, subsection (1)	section 104, subsection (1)
section 2, subsection (1), clause 29, subclause (iii)	section 63, subsection (13), paragraph (a)	section 104, subsection (23), paragraph (a)
section 4, subsection (4), clause (a)	section 33, subsection (3), paragraph (a)	section 120, subsection (4), paragraph (a)
section 4, subsection (5)	section 34, subsection (2)	section 117, subsection (6)
section 5, subsection (2)	section 40, subsection (2)	section 124, subsection (4), paragraph (a)
section 7, subsection (1)	section 42, subsection (1)	section 119, subsection (1)
section 7, subsection (1), clause (a)	section 42	section 119
section 7, subsection (1), clause (a)	section 42, subsection (1), paragraph (c)	section 119, subsection (1), paragraph (c)
13 section 7, subsection (1), clause (c)	section 42	section 119

SCHEDULE
(Amendments)

Column I	Column II	Column III
Provision of The Alberta Income Tax Act	Section, etc. of Federal Income Tax Act that is referred to in Alberta Act	The reference is amended to read
section 7, subsection (2), clause (a), subclause (ii)	section 33	section 120
section 7, subsection (3)	section 42	section 119
section 7, subsection (6)	section 42, subsection (1)	section 119, subsection (1)
section 7, subsection (6)	section 42, subsection (4)	section 119, subsection (5)
section 8, clause (a)	section 62, subsection (1)	section 149, subsection (1)
section 12, subsection (1), clause (h)	section 79C	section 147
section 13, subsection (2)	section 48, paragraph (a)	section 155, paragraph (a)
section 14, subsection (2)	section 49, paragraph (a)	section 156, paragraph (a)
section 15, subsection (2), clause (a)	section 50, subsection (1), paragraph (a), subparagraph (i)	section 157, subsection (1), paragraph (a), subparagraph (i)
section 15, subsection (2), clause (b)	section 50, subsection (1), paragraph (a), subparagraph (ii)	section 157, subsection (1), paragraph (a), subparagraph (ii)

SCHEDULE
(Amendments)

Column I	Column II	Column III
Provision of The Alberta Income Tax Act	Section, etc. of Federal Income Tax Act that is referred to in Alberta Act	The reference is amended to read
section 15, subsection (3)	section 50, subsection (2)	section 157, subsection (2)
section 17	section 52 section 53 section 63, subsection (2) section 63, subsection (13), paragraph (e) section 64, subsection (2), paragraph (a)	section 159 section 160 section 104, subsection (2) section 104, subsection (23), paragraph (e) section 70, subsection (2)
section 18, subsection (5)	section 54, subsection (4)	section 161, subsection (4)
section 18, subsection (8)	section 27	section 111
section 19, subsection (4)	section 55	section 162
section 21, subsection (5)	section 57, subsection (3a)	section 164, subsection (4)
51 section 21, subsection (7)	section 27	section 111

SCHEDULE
(Amendments)

Column I	Column II	Column III
Provision of The Alberta Income Tax Act	Section, etc. of Federal Income Tax Act that is referred to in Alberta Act	The reference is amended to read
section 29, subsection (4), clause (b)	section 116, subsection (5)	section 220, subsection (5)
section 30, subsection (2)	section 117	section 221
section 37, subsection (8)	Division D	Divisions I and J
section 40, subsection (1)	section 126A	section 232
section 40, subsection (2)	section 126A	section 232
section 41	section 117, subsection (1), paragraph (d)	section 221, subsection (1), paragraph (d)
section 42, subsection (1)	section 117, subsection (1), paragraph (d) section 117, subsection (1), paragraph (e)	section 221, subsection (1), paragraph (d) section 221, subsection (1), paragraph (e)
section 46	section 131 section 132	section 238 section 239