

1973 Bill 80

Second Session, 17th Legislature, 22 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 80

The Alberta Income Tax Amendment Act, 1973

THE PROVINCIAL TREASURER

First Reading

Second Reading

Third Reading

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BILL 80

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THE ALBERTA INCOME TAX AMENDMENT ACT, 1973

(Assented to _____, 1973)

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 clause 12 and by substituting the following clause therefor:*
 12. "federal Act" means the *Income Tax Act* (Canada) as amended from time to time;
3. *Section 5 is amended by striking out subsection (2) and by substituting the following subsection therefor:*
 - (2) In this section,
 - (a) "taxable income earned in the year" means the aggregate of the taxable income earned in the year in each province by a corporation as determined in accordance with regulations made under section 124, subsection (4), paragraph (a) of the federal Act;
 - (b) "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 section 124, subsection (4), paragraph (a) of the federal Act.
4. *The following heading and sections are added after section 8:*

Mutual Fund Trusts and Corporations

8.1 (1) Where an amount is to be refunded to a mutual fund trust in respect of a taxation year, pursuant to section 132 of the federal Act, the Provincial Treasurer shall, subject to subsection (2), at such time and in such manner as is provided in section 132 of the federal Act, refund to the mutual fund trust an amount (hereinafter referred to in

Explanatory Notes

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

2. This amendment will update the reference.

3. This amendment adds a definition of “taxable income earned in the year”.

4. This amendment will parallel the federal Act in preserving the conduit principle by refunding capital gains tax to mutual fund trusts and corporations after they distribute the capital gains to their unit holders or shareholders, as the case may be.

this section as its “capital gains refund” for the year) equal to that proportion of the amount of the refund for the year calculated under section 132, subsection (1) of the federal Act that

- (a) the percentage obtained by multiplying the percentage referred to in section 4, subsection (3) of this Act for the year times the percentage referred to in section 122, subsection (3), paragraph (a) of the federal Act for the year

is of

- (b) the percentage referred to in section 132, subsection (4), paragraph (b), subparagraph (i) of the federal Act for the year.

(2) For the purpose of computing the capital gains refund under subsection (1) for a mutual fund trust in respect of a taxation year, where the mutual fund trust had income earned in the taxation year outside Alberta, the refund shall be that proportion of the capital gains refund for the year, otherwise determined under subsection (1), that the trust’s income earned in the taxation year in Alberta is of its income for the year.

(3) Instead of making a refund that might otherwise be made under subsection (1), the Provincial Treasurer may, where the mutual fund trust is liable or about to become liable to make any payment under this Act, apply the amount that would otherwise be refunded to that other liability and notify the trust of that action.

(4) In this section,

- (a) “income earned in the taxation year in Alberta” has the same meaning as in section 4;
- (b) “income earned in the taxation year outside Alberta” has the same meaning as in section 4;
- (c) “income for the year” has the same meaning as in section 4;
- (d) “mutual fund trust” has the same meaning as in section 132 of the federal Act.

8.2 (1) Where an amount is to be refunded to a mutual fund corporation in respect of a taxation year, pursuant to section 131 of the federal Act, the Provincial Treasurer shall, subject to subsection (2), at such time and in such manner as is provided in section 131 of the federal Act, refund to the corporation an amount (hereinafter referred to in this section as its “capital gains refund” for the year) equal to that proportion of the amount of the refund for the year calculated under section 131, subsection (2) of the federal Act that

- (a) the percentage referred to in section 5, subsection (1) of this Act for the year

is of

- (b) the percentage referred to in section 131, subsection (6), paragraph (d), subparagraph (i) of the federal Act for the year.

(2) For the purpose of computing the capital gains refund under subsection (1) for a mutual fund corporation in respect of a taxation year, where

- (a) the mutual fund corporation's taxable income earned in the year in Alberta

is less than

- (b) the mutual fund corporation's taxable income for the year,

the refund shall be that proportion of the capital gains refund for the year, otherwise determined under subsection (1), that the amount determined under clause (a) is of the amount determined under clause (b).

(3) Instead of making a refund that might otherwise be made under subsection (1), the Provincial Treasurer may, where the mutual fund corporation is liable or about to become liable to make any payment under this Act, apply the amount that would otherwise be refunded to that other liability and notify the corporation of that action.

(4) In this section,

- (a) "mutual fund corporation" has the same meaning as in section 131 of the federal Act and includes an investment corporation within the meaning of section 130, subsection (2) of the federal Act;
- (b) "taxable income earned in the year" has the same meaning as in section 5;
- (c) "taxable income earned in the year in Alberta" has the same meaning as in section 5.

5. The following heading and section are added after section 8.2:

Renter Assistance Credits

8.3 (1) This section does not apply to

- (a) an individual who has applied for or received a homeowner education tax refund or a senior citizen renter assistance grant under *The Alberta Property Tax Reduction Act* for the same taxation year;
- (b) the spouse of an individual who has received a refund or grant referred to in clause (a) or a credit under this section for the same taxation year, if

5. This amendment will provide the machinery for renter credits envisaged by The Alberta Property Tax Reduction Act for other than senior citizen renters.

they are not separated and living apart pursuant to a judicial separation or a written separation agreement;

- (c) an individual who
 - (i) has not attained the full age of 21 years on the last day of the taxation year, and
 - (ii) was claimed as a dependant for that year in accordance with section 109 of the federal Act;
- (d) a member of the clergy or of a religious order or a regular minister of a religious denomination, except as to the amount deducted for his residence in accordance with section 8, subsection (1), paragraph (c) of the federal Act;
- (e) a member of the Canadian Forces who has not resided in an eligible renter residence;
- (f) an officer or servant of the government of a country other than Canada who is referred to in section 149, subsection (1), paragraph (a) of the federal Act;
- (g) a member of the family or a servant of a person described in clause (f) who is referred to in section 149, subsection (1), paragraph (b) of the federal Act;
- (h) a trust or estate.

(2) An individual, who

- (a) resided in Alberta on the last day of the taxation year,
- (b) attained the full age of 16 years but had not attained the full age of 65 years on the last day of the taxation year, and
- (c) resided in one or more eligible renter residences as his normal residence for an aggregate of 120 days during the taxation year,

is entitled to a renter assistance credit for that year in accordance with this section, the regulations made thereunder, the federal Act and the federal regulations.

(3) A credit under this section shall be

- (a) 5 per cent of the rent paid by the individual during the taxation year, or
- (b) the aggregate of \$100 and 2 per cent of the rent paid by the individual during the taxation year, less 1 per cent of his taxable income for that year, or
- (c) \$100,

whichever is the least.

(4) Where two individuals are married to one another and are not separated and living apart pursuant to a judi-

cial separation or a written separation agreement, only the spouse having the higher taxable income for the same taxation year is entitled to a credit under this section for that year.

(5) In subsection (3), the rent paid must be in consideration of the individual's normal residence in one or more eligible renter residences and may include

- (a) parking, utilities and any other privileges or services incidental to the lease, tenancy or other right of occupancy and not separately charged for,
- (b) the value of services performed by the individual in addition to, or in lieu of, a money payment,
- (c) money paid directly or indirectly by an individual,
- (d) where two or more individuals share a normal residence, the individual's direct or indirect contribution to the rent paid, and
- (e) money paid to a fraternal society, co-operative association or other like body by an individual, who was then a member of that society, association or other body, in consideration of his residing in a residence operated by that society, association or other body, but does not include membership dues in that society, association or other body.

(6) In subsection (3), rent paid does not include the value of meals or board.

(7) Where an individual has more than one normal residence at the same time, he shall designate the rent for only one such residence for that time in the prescribed form of return and only the designated rent shall be included in the computation of his credit under subsection (3).

(8) In subsection (2), a normal residence may include a hotel room or other form of temporary residence.

(9) Where an individual died during a taxation year, then notwithstanding subsection (2), clause (a), he shall be deemed to have resided in Alberta on the last day of that year but this provision shall not be construed so as to extend the actual length of residence.

(10) No individual is entitled to a credit under this section unless he applies for such credit in accordance with the prescribed form of return.

(11) Where an individual is entitled to a credit under this section for any taxation year and has applied for such credit in accordance with this section, the Provincial Treasurer

- (a) may deduct the credit from any tax, interest or penalty otherwise owing by the individual for that

or any preceding taxation year under this Act, the income tax statute of any agreeing province or the federal Act, or

- (b) may deduct the credit from any contribution, interest or penalty otherwise owing by the individual for that or any preceding taxation year under the *Canada Pension Plan* (Canada), or
- (c) may deduct the credit from any premium, interest or penalty otherwise owing by the individual for that or any preceding taxation year under the *Unemployment Insurance Act, 1971* (Canada), or
- (d) where the credit exceeds any deductions under this subsection, shall pay the amount of such excess to the individual from the taxes, interest and penalties collected under this Act.

(12) The Lieutenant Governor in Council may make regulations

- (a) defining any expression used in this section which is not defined therein and which is not at variance with the federal Act or the federal regulations;
- (b) prescribing rules to determine an individual's normal residence;
- (c) prescribing the form of returns, receipts and other documents;
- (d) prescribing any additional rules regarding eligibility or ineligibility for credits under this section for the purpose only of preventing two or more homeowner education tax refunds or senior citizen renter assistance grants under *The Alberta Property Tax Reduction Act* or credits under this section being paid to the same individual or his spouse with respect to the same taxation year;
- (e) prescribing any special rules considered necessary where two or more individuals reside in the same eligible renter residence;
- (f) respecting any other matter or thing necessary or advisable to carry out effectively the purposes of this section.

(13) In this section, "eligible renter residence" has the same meaning as in *The Alberta Property Tax Reduction Act*.

6. (1) *This Act, except section 5, applies to the 1972 and subsequent taxation years.*

(2) *Section 5 of this Act applies to the 1973 and subsequent taxation years.*

6. Application of the Act.

7. This Act comes into force on the day upon which it is assented to and upon so coming into force

- (a) sections 1 to 4 shall be deemed to have been in force at all times on and after January 1, 1972, and*
- (b) section 5 shall be deemed to have been in force at all times on and after January 1, 1973.*