

1977 BILL 58

Third Session, 18th Legislature, 26 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 58

**THE ALBERTA INCOME TAX AMENDMENT
ACT, 1977 (NO. 2)**

THE PROVINCIAL TREASURER

First Reading

Second Reading

Third Reading

Bill 58

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THE ALBERTA INCOME TAX AMENDMENT ACT, 1977 (NO. 2)

(Assented to , 1977)

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 amended by this Act.

2 Section 4.1(b)(ii)(B)(II) is amended by striking out “the number of dependants claimed with respect to that taxation year” and by substituting “the number of children under 18 years of age resident in Canada and claimed by the taxpayer as dependants with respect to that taxation year”.

3 Section 8.3(10) is amended by adding “within 4 years from the end of that taxation year” after “return”.

Explanatory Notes

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

2 Section 4.1(b) presently reads:

4.1. The tax payable by an individual under section 4, subsection (1) or (2) shall be reduced

(b) for the 1977 or any subsequent taxation year, by an amount equal to the lesser of

(i) the tax payable under section 4, subsection (1) or (2) for the taxation year, and

(ii) the aggregate of

(A) \$116 minus one-half of the tax payable under section 4, subsection (1) or (2) for the taxation year, and

(B) the lesser of

(I) \$300, and

(II) the product of \$50 and the number of dependants claimed with respect to that taxation year.

The amendment restricts the \$50 credit to minor dependants to be consistent with the federal Act.

3 The amendment prescribes a 4 year limit on applications for Alberta Rental Assistant Credits.

Section 8.3(10) presently reads:

(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.

4(1) Section 8.4 is amended

(a) by repealing subsection (1)(a) and by substituting the following:

(a) “attributed Canadian royalty income” of a taxpayer for a taxation year means the aggregate of

(i) the amounts required to be included in computing the taxpayer’s income for the year by virtue of section 12(1)(o) of the federal Act, where those amounts relate to the production from oil or gas wells or bituminous sands deposits, oil sands deposits or coal deposits or to any right, licence or privilege to explore for, drill for or recover petroleum or natural gas or to explore for, mine, quarry, remove, treat or process bituminous sands or oil sands or to win or work mines, seams or beds of coal,

(ii) the amounts in respect of which no deduction is allowed in computing the taxpayer’s income for the year by virtue of section 18(1)(m) of the federal Act, other than an amount described in section 66.2(5)(a) of the federal Act, where those amounts relate to the production from oil or gas wells or bituminous sands deposits, oil sands deposits or coal deposits or to any right, licence or privilege to explore for, drill for or recover petroleum or natural gas or to explore for, mine, quarry, remove, treat or process bituminous sands or oil sands or to win or work mines, seams or beds of coal,

(iii) any amounts by which the fair market value (as determined under section 69(8) of the federal Act) of petroleum, natural gas or coal disposed of under dispositions referred to in section 69(6) of the federal Act, exceeds the proceeds of disposition, if any, actually received by him in respect of the petroleum, natural gas or coal so disposed of, and

(iv) any amounts by which the amount referred to in section 69(7) of the federal Act in respect of acquisitions of petroleum, natural gas or coal referred to in that subsection exceeds the fair market value (as determined under section 69(9) of the federal Act) of the petroleum, natural gas or coal so acquired,

less the amount allowed to the taxpayer for the year under section 20(1)(v.1) of the federal Act in respect of oil or gas wells or bituminous sands deposits, oil sands deposits or coal deposits;

4 Section 8.4 presently reads in part:

(2) An individual is entitled, subject to this section and the regulations, to a royalty tax rebate in respect of a taxation year in an amount equal to the lesser of

(a) the product obtained when

(i) the proportion of his attributed Canadian royalty income for the year that

(A) his income earned in Alberta in the year as determined in accordance with Part XXVI of the federal regulations

is of

(B) his income for the year,

is multiplied by

(ii) for the 1974 taxation year, 36 per cent of his federal basic tax rate for that year, or

(iii) for the 1975 and subsequent taxation years, 26 per cent of his federal basic tax rate for the year,

(6) Where there is tax otherwise payable under this Act by a taxpayer for a taxation year, the taxpayer is entitled to carry forward and use in the calculation of his royalty tax rebate for the next succeeding year, as though it were attributed Canadian royalty income in the next succeeding year,

(a) in the case of an individual, the quotient obtained when

(i) the amount, if any, by which the product determined for him for the year under subsection (2), clause (a) exceeds his tax otherwise payable under this Act for the year,

is divided by

(ii) in the case of the 1974 taxation year, the product of

(A) 36 per cent of his federal basic tax rate, and

(B) the quotient obtained when his income earned in Alberta in the 1974 taxation year (as determined in accordance with Part XXVI of the federal regulations) is divided by his income for that taxation year,

or

(iii) in the case of the 1975 and subsequent taxation years, the product of

(A) 26 per cent of his basic federal tax rate, and

(B) the quotient obtained when his income earned in Alberta in the taxation year (as determined in accordance with Part XXVI of the federal regulations) is divided by his income for that taxation year;

(b) by repealing subsection (2)(a)(iii) and substituting the following:

(iii) for the 1975 and 1976 taxation years, 26% of his federal basic tax rate for the year, or

(iv) for the 1977 and subsequent taxation years, 38.5% of his federal basic tax rate for the year,

(c) by repealing subsection (6)(a)(iii) and substituting the following:

(iii) in the case of the 1975 and 1976 taxation years, the product of

(A) 26% of his basic federal tax rate, and

(B) the quotient obtained when his income earned in Alberta in the taxation year (as determined in accordance with Part XXVI of the federal regulations) is divided by his income for that taxation year,

or

(iv) in the case of the 1977 and subsequent taxation years, the product of

(A) 38.5% of his basic federal tax rate, and

(B) the quotient obtained when his income earned in Alberta in the taxation year (as determined in accordance with Part XXVI of the federal regulations) is divided by his income for that taxation year;

(d) in subsection (7.1)(b) by striking out “or related hydrocarbons (except coal)” and by substituting “or coal”,

(e) in subsection (7.2)(b) by striking out “or related hydrocarbons (except coal)” and by substituting “or coal”,

(f) in subsection (8) by striking out “at the time and in the manner prescribed by the Provincial Treasurer” and substituting “in the prescribed form and within the prescribed period”.

(2) Subject to subsection (3) of this section, subsection (1)(a), (d) and (e) are applicable to the 1974 and subsequent taxation years.

(3) Section 8.4(1)(a) of The Alberta Income Tax Act (as re-enacted by subsection (1)(a) of this section) and section 8.4(7.1) and (7.2) of that Act (as amended by subsection (1)(d) and (e) of this section)

(8) A taxpayer is entitled to a royalty tax rebate in respect of a taxation year only if application is made therefor by the taxpayer to the Provincial Treasurer at the time and in the manner prescribed by the Provincial Treasurer.

The new definition of “attributed Canadian royalty income” and the consequential changes to subsections (7.1) and (7.2) have the effect of extending the royalty rebate program to coal.

The amendments to subsections (2)(a) and (6)(a) will make the rate applied to the rebate consistent with the change in the personal income tax rate enacted in the Spring sitting of 1977.

The amendment to subsection (8) will allow the definition of “prescribed” in section 2 of the Act to apply, so that the form of the application will be prescribed by the Provincial Treasurer and the time period for filing will be prescribed by regulations of the Lieutenant Governor in Council.

The definition of “prescribed” reads:

23. “prescribed”, in the case of a form or the information to be given on a form, means prescribed by order of the Provincial Treasurer, and, in any other case, means prescribed by regulation;

Section 8.5(13) of the Act is being amended in a similar manner: see section 5 of this Bill.

(a) shall, to the extent that they relate to the production from coal deposits, be read as referring to coal produced on or after July 1, 1976, and

(b) shall, to the extent that they relate to any rights, licences or privileges to win or work mines, seams or beds of coal, be read as referring to rights, licences and privileges acquired on or after July 1, 1976.

5 Section 8.5 is amended

(a) in subsection (10) by striking out “(9)” and by substituting “(10.1)”,

(b) in subsection (13) by striking out “in the manner and at the time prescribed by the Provincial Treasurer” and by substituting “in the prescribed form and within the prescribed period”.

6 Section 8.6 is amended by adding the following after subsection (3):

(4) A taxpayer is not entitled to a deduction under subsection (1) in respect of a taxation year unless application is made in accordance with the prescribed form of return within 4 years from the end of that taxation year.

7 Section 18 is amended

(a) in subsection (4) by striking out “a taxpayer” and by substituting “an individual”,

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

(4.1) For the purposes of subsection (2), where a corporation is required to pay a part or instalment of tax for a taxation year computed by reference to a method described in section 15(1), the corporation shall be deemed to have been liable to pay a part or instalment computed by reference to

(a) its tax payable for the year,

(b) its instalment base for the immediately preceding taxation year, or

(c) its instalment base for the second taxation year preceding the year and its instalment base for the immediately preceding taxation year.

5 Section 8.5(13) presently reads:

(13) A taxpayer is not entitled to a royalty tax credit in respect of a taxation year unless application is made therefor by the taxpayer to the Provincial Treasurer in the manner and at the time prescribed by the Provincial Treasurer.

The amendment to subsection (10) corrects a drafting omission in the amending Act passed in May 1977.

As to the reasons for the amendment to subsection (13), see the explanatory note to section 4 of this Bill relating to the amendment to section 8.4(8) of the Act.

6 The amendment prescribes a 4 year limit on applications for Alberta political contribution deductions.

7 Subsections (2) and (4) presently read:

(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.

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

(a) the preceding year, or

(b) the taxation year,

whichever is the lesser.

The amendments are needed to make the provisions of the Alberta Act regarding required instalment payments consistent with the federal Act provisions, as required by the Tax Collection Agreement.

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

