

1978 BILL 51

Fourth Session, 18th Legislature, 27 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 51

THE ALBERTA INCOME TAX AMENDMENT ACT, 1978

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 51

1978

THE ALBERTA INCOME TAX AMENDMENT ACT, 1978

(Assented to _____, 1978)

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 2(1) is amended by repealing clause 24 and substituting the following:

24 “province” does not include

(i) in respect of the 1977 and earlier taxation years, the Northwest Territories or the Yukon Territory, and

(ii) in respect of the 1978 and subsequent taxation years, the Yukon Territory;

3 Section 4(7) is repealed and the following is substituted:

(7) For the purposes of subsection (6) and section 5(3)(b), the non-business-income tax paid by a taxpayer 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 as computed under section 126(7)(c) of the federal Act for the purposes of that Act.

4 Section 4.1 is repealed and the following is substituted:

4.1(1) In this section, “tax otherwise payable” means the tax payable under section 4(1) or (2) less any royalty tax rebate claimed by an individual under section 8.4 for the taxation year.

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

Explanatory Notes

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

2 Section 2(1), clause 24 presently reads:

24 "province" does not include the Northwest Territories or the Yukon Territory.

3 Section 4(7) presently reads:

(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.

4 Section 4.1 presently reads:

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

(a) for the 1975 and 1976 taxation years, by an amount equal to the lesser of

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

(a) for the 1975 and 1976 taxation years, by an amount equal to the lesser of

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

(ii) \$80 minus 2% of the individual's taxable income for that year,

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

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

(ii) the amount, if any, by which the aggregate of

(A) \$116, and

(B) the lesser of

(I) \$300, and

(II) the product of \$50 and 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

exceeds 1/2 of the tax payable under section 4(1) or (2) for the taxation year,

(c) for the 1978 taxation year, by an amount equal to the lesser of

(i) the tax otherwise payable for the taxation year, and

(ii) the amount, if any, by which the aggregate of

(A) \$231, and

(B) the lesser of

(I) \$300, and

(II) the product of \$50 and 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

exceeds the tax otherwise payable for the taxation year, and

(d) for the 1979 and subsequent taxation years, by an amount equal to the lesser of

(i) the tax otherwise payable for the taxation year, and

(ii) the amount, if any, by which the aggregate of

(A) \$116, and

(B) the lesser of

(I) \$300, and

(II) the product of \$50 and 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

exceeds 1/2 of the tax otherwise payable for the taxation year.

5(1) Section 8.4 is amended

(a) in subsection (1)(a) by striking out “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” and substituting:

“less the aggregate of

(v) 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, and

(vi) the amount of any reimbursement received by the taxpayer under the terms of a contract, where the reimbursement was for an amount paid or payable by the taxpayer that is required to be included in computing his income or denied as a deduction in computing his income by virtue of section 12(1)(o) or section 18(1)(m) of the federal Act”,

(b) in subsection (1) by adding the following after clause (b):

(b.1) “resource income” means income reasonably attributable to production from oil and 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

5 Section 8.4 presently reads in part:

8.4(1) In this section,

(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

explore for, mine, quarry, remove, treat or process bituminous sands or oil sands or to win or work mines, seams or beds of coal;

(c) in subsection (1)(d) by striking out “means” and substituting “means, with respect to the 1977 and earlier taxation years,”,

(d) in subsection (1) by adding the following after clause (d):

(d.1) “tax otherwise payable under this Act”, or any similar expression, means, with respect to the 1978 and subsequent taxation years, the tax payable under section 4(1) or (2) for that taxation year,

(e) by repealing subsection (2)(a)(iv) and substituting the following:

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

(f) by adding the following after subsection (2):

(2.1) For the 1978 and subsequent taxation years, 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 resource income earned in Alberta for the year as determined in accordance with Part XXVI of the federal regulations

is of

(B) his total resource income for the year

is multiplied by 38.5% of his federal basic tax for the year, and

(b) his tax otherwise payable under this Act for the year.

(g) in subsection (6)(a)

(i) in subclause (i) by striking out “subsection (2), clause (a)” and substituting “subsection (2)(a) or subsection (2.1)(a)”,

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;

(d) the expression "tax otherwise payable under this Act", or any similar expression, means the tax payable under this Act without reference to this section and section 8.5;

(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 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,

(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,

(ii) in subclause (iv) by striking out “and subsequent taxation years” and substituting “taxation year”, and

(iii) by adding “or” at the end of subclause (iv) and by adding the following after subclause (iv):

(v) in the case of the 1978 and subsequent taxation years, the product of

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

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

(2) Section 5(1)(a) applies to the 1978 and subsequent taxation years.

6 Section 8.5(1) is amended

(a) in clause (b) by striking out “a taxation year” and substituting “the 1977 and earlier taxation years”, and

(b) by adding the following after clause (b):

(b.1) “attributed Alberta royalty income” of a taxpayer for the 1978 and subsequent taxation years means the aggregate of all amounts each of which is

(i) an amount required to be included in computing the taxpayer’s income for the year by virtue of section 12(1)(o) of the federal Act, or

(ii) an amount 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,

less all amounts each of which is

(iii) a reimbursement received by the taxpayer under the terms of a contract, where the reimbursement was for an amount paid or payable by the taxpayer that is required to be included in computing his income or denied as a deduction in computing his income by virtue of section 12(1)(o) or section 18(1)(m) of the federal Act,

and each of which is a royalty receivable by the Crown in right of Alberta under a lease, licence, reservation or permit granting petroleum rights, natural gas rights or petroleum and natural gas rights;

or

(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;

6 Section 8.5(1) presently reads in part:

8.5(1) In this section

(b) "attributed Alberta royalty income" of a taxpayer for a taxation year means the aggregate of all amounts each of which is

(i) an amount required to be included in computing the taxpayer's income for the year by virtue of section 12, subsection (1), paragraph (o) of the federal Act, or

(ii) an amount in respect of which no deduction is allowed in computing the taxpayer's income for the year by virtue of section 18, subsection (1), paragraph (m) of the federal Act,

and each of which is a royalty receivable by the Crown in right of Alberta under a lease, licence, reservation or permit granting petroleum rights, natural gas rights or petroleum and natural gas rights;

7 Section 8.6(4) is amended by striking out “subsection (1)” and substituting “subsection (2)”.

8 Section 12(1) is amended by adding the following after clause (h):

(h.1) a payment out of or under a registered retirement income fund, or

9 Section 20(1) is repealed and the following is substituted:

20(1) Every person who, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, has made or has participated in, assented to or acquiesced in the making of, a statement or omission (in this subsection referred to as a “false statement”) in a return, certificate, statement or answer (in this section referred to as a “return”) filed or made in respect of a taxation year as required by or under this Act or the regulations, is liable to a penalty of 25% of the amount, if any, by which

(a) the tax for the year that would be payable by him under this Act if his taxable income for the year were computed by adding to the taxable income reported by him in his return for the year that portion of his understatement of income for the year that is reasonably attributable to the false statement

exceeds

(b) the tax for the year that would have been payable by him under this Act had his tax payable for the year been assessed on the basis of information provided in his return for the year.

(1.1) For the purpose of subsection (1), the taxable income reported by a person in his return for a taxation year shall be deemed not to be less than nil and the “understatement of income for a year” of a person has the meaning assigned to that expression in section 163(2.1) of the federal Act.

10 Section 50(4) is amended by striking out “that he has charge of the appropriate records,”.

7 Corrects an incorrect reference.

8 The new clause (h.1) permits the tax on a payment out of or under a registered retirement income fund to be deducted at source.

9 Section 20(1) presently reads:

20(1) Every person who, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, makes, or participates in, assents to or acquiesces in the making of, a statement or omission in a return, certificate, statement or answer filed or made as required by or under this Act or a regulation, as a result of which the tax that would have been payable by him for a taxation year if the tax had been assessed on the basis of the information provided in the return, certificate, statement or answer is less than the tax payable by him for the year, is liable to a penalty of twenty-five per cent of the amount by which the tax that would have been so payable is less than the tax payable by him for the year.

10 Section 50(4) presently reads:

(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.

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