

1980 BILL 42

Second Session, 19th Legislature, 29 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 42

THE ALBERTA INCOME TAX AMENDMENT ACT, 1980

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

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1980

THE ALBERTA INCOME TAX AMENDMENT ACT, 1980

(Assented to _____, 1980)

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2 *Section 4(4)(d) is repealed and the following is substituted:*

(d) “tax payable under the federal Act” means the amount of the tax payable by an individual in respect of a taxation year and determined under paragraph 120(4)(c) of the federal Act for the year in respect of that individual.

3 *Section 8.4 is amended*

(a) *in subsection (1)(a)(vi) by adding “in respect of oil or gas wells or bituminous sands deposits, oil sands deposits or coal deposits” after “federal Act”,*

(b) *in subsections (2)(a)(i) and (2.1)(a)(i) by striking out “his attributed Canadian royalty income for the” and substituting “the sum of his attributed Canadian royalty income for the year and his attributed Canadian royalty income carry forward from the immediately preceding taxation”,*

(c) *in subsection (2.1)(a) by adding “rate” after “basic tax”,*

(d) *in subsection (3)(a) by striking out “its attributed Canadian royalty income for the” and substituting “the sum of its attributed Canadian royalty income for the year and its attributed Canadian royalty income carry forward from the immediately preceding taxation”,*

(e) *by repealing subsection (5) and substituting the following:*

(5) Where there is no tax otherwise payable under this Act by a taxpayer for a taxation year, the attributed Canadian royalty income carried forward to the immediately succeeding taxation year is his attributed Canadian royalty income for the year.

Explanatory Notes

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

2 Section 4(4)(d) presently reads:

(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.

3 These amendments are consequential to The Alberta Corporate Income Tax Act.

(f) in subsection (6) by striking out “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” and substituting “the attributed Canadian royalty income carried forward to the immediately succeeding taxation year is”

4 Section 8.5 is amended

(a) in subsection (3)(b) by repealing subclause (ii) and substituting the following:

(ii) that proportion of \$1 000 000 that the number of days after May 6, 1974 in the taxation year bears to 365.

(b) in subsection (6) by repealing clause (b) and substituting the following:

(b) that proportion of \$1 000 000 that the number of days after May 6, 1974 in the taxation year bears to 365.

(c) by repealing subsection (11) and substituting the following:

(11) In computing the attributed Alberta royalty income of a taxpayer, no amount shall be included that would, if included, artificially increase the attributed Alberta royalty income of that taxpayer.

(11.1) Where, in the case of 2 or more corporations, the Provincial Treasurer is satisfied that

(a) the separate existence of those corporations in a taxation year is not solely for the purpose of carrying out the business of those corporations in the most effective manner, and

(b) one of the main reasons for that separate existence in that year is to increase the amount of royalty tax credit that would otherwise be determined under this Act

the 2 or more corporations shall, if the Provincial Treasurer so directs, be deemed to be associated with each other in that year.

(11.2) Where, in the opinion of the Provincial Treasurer, 2 or more taxpayers have at any time entered into one or more sales, exchanges, declarations of trust or other transactions that

4 These amendments are consequential to The Alberta Corporate Income Tax Act.

(a) lack any substantial business purpose, other than increasing the aggregate amount of the royalty tax credit that may be claimed under this section, or

(b) artificially increase the royalty tax credit that may be claimed under this section,

the Provincial Treasurer may direct that all of those taxpayers shall be deemed to be corporations and shall be deemed to be associated with each other.

(11.3) A direction made under subsection (11.1) or (11.2)

(a) shall not apply to a taxation year of any taxpayer prior to the taxation year in which the direction is made, and

(b) may be revoked by the Provincial Treasurer and, if revoked, shall not apply to the taxation year in which the revocation occurs or to any subsequent taxation year.

(d) by adding the following after subsection (13):

(13.1) In order to qualify for a royalty tax credit under this section, a corporation shall retain and produce on demand by the Provincial Treasurer a true and complete copy of all documents relating to its share of its attributed Alberta royalty income and its royalty tax credit, including any partnership agreements and the legal description of the property in respect of which the royalty tax credit is claimed.

5 Section 8.7 is amended by adding the following after subsection (1):

(1.1) For the purposes of this section, subparagraph 125(6)(f)(i) of the federal Act does not apply for taxation years commencing on or after October 23, 1979.

6 The following is added after section 8.7:

Alberta Rental Investment Tax Credit

8.8(1) In this section,

(a) “amount invested” means the capital cost to the taxpayer of a qualifying Alberta multiple unit residential building;

5 This amendment is consequential to The Alberta Corporate Income Tax Act.

6 Alberta rental investment tax credits.

(b) “qualifying Alberta multiple unit residential building” means a property that is a multiple unit residential building in Alberta that is or would, but for the operation of Classes 31 or 32 of Schedule II of the federal regulations, be included in Classes 3 or 6 of Schedule II of the federal regulations and in respect of which

(i) a certificate of eligibility has been issued by the Alberta Home Mortgage Corporation certifying that the installation of footings or any other base support of the building was commenced after December 31, 1979 and before January 1, 1982, and that, according to plans and specifications for the building, not less than 80% of the floor space will be used in providing self-contained domestic establishments and related parking, recreation, service and storage areas,

(ii) a certificate of completion has been issued by the Alberta Home Mortgage Corporation to the taxpayer, and

(iii) immediately after the certificate of completion has been issued, not more than 20% of the floor space is used for any purposes other than those referred to in subclause (i)

but does not include property

(iv) the cost of which is deductible in computing the taxpayer’s income,

(v) that is described in the taxpayer’s inventory, or

(vi) that was not acquired by the taxpayer for the purpose of gaining or producing income;

(c) “tax otherwise payable under this Act” means the tax payable under this Act without reference to this section and sections 8.3 and 8.5.

(2) Where a taxpayer was, at the end of a taxation year of a partnership, a member of the partnership, his share of any amount that would be an amount invested by the partnership in that taxation year, if the partnership were a taxpayer, shall, for the purposes of this section, be deemed to be an amount invested by the taxpayer in his taxation year in which the taxation year of the partnership ended.

(3) A taxpayer may, in computing his tax payable under this Act for a taxation year, deduct the lesser of

(a) the amount, if any, by which 5% of the amount invested exceeds the aggregate of amounts deducted by the taxpayer under this section in a previous taxation year, and

(b) the tax otherwise payable under this Act.

(4) A taxpayer is not entitled to an Alberta rental investment tax credit in respect of a taxation year unless

(a) he applies for that credit in accordance with the prescribed form of return within 4 years from the end of that taxation year, and

(b) a certificate of completion issued by the Alberta Home Mortgage Corporation accompanies an application made under this section.

(5) A certificate issued under subsection (1)(b)(i) or (ii) may be revoked by the Alberta Home Mortgage Corporation where

(a) an incorrect statement was made in the furnishing of information, or

(b) the taxpayer does not comply with subsection (1)(b)

and a certificate that has been revoked shall be deemed to have been void from the time of its issue.

(6) The Provincial Treasurer may prescribe forms for the purposes of this section.

7 The following is added after section 56:

57 This Act does not apply to the taxation year of a corporation if that taxation year commences after December 31, 1980.

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

7 Transitional provision.