

1981 BILL 81

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 81

**ALBERTA INCOME TAX
AMENDMENT ACT, 1981**

PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 81

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1981

ALBERTA INCOME TAX AMENDMENT ACT, 1981

(Assented to _____, 1981)

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), clause 24 is amended by repealing subclause (ii) and substituting the following:

(ii) in respect of the 1978 and 1979 taxation years, the Yukon Territory;

3(1) Section 4(5) is repealed and the following is substituted:

(5) An individual who, under the federal Act, pays tax computed in accordance with subsection 117(6) of that Act may, in lieu of the tax under subsection (1), pay a tax determined by reference to a table prepared in accordance with regulations.

(2) Subsection (1) applies to the 1979 and subsequent taxation years.

4 Section 8.3 is amended

(a) in subsection (12) by repealing clause (c);

(b) by adding the following after subsection (12):

Explanatory Notes

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

- 2 Section 2, clause 24(ii) presently reads:

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

- 3 Section 4(5) presently reads:

(5) An individual who, under the federal Act, pays tax computed in accordance with section 117, subsection (6) thereof, may, in lieu of the tax under subsection (1), pay a tax computed in accordance with a prescribed table, which shall be prepared in accordance with the following rules:

 - (a) the table shall be divided into ranges of amounts not exceeding ten dollars each and specify the tax payable on every amount taxable within each range; and*

 - (b) the tax payable on amounts taxable within one of the ranges referred to in clause (a) shall be the amount in dollars and even tenth parts thereof that is nearest the aggregate of the taxes otherwise payable under subsection (1) on the average of the highest and lowest amounts in the range.*

- 4 Section 8.3(12) and (14) presently read in part:

8.3(12) The Lieutenant Governor in Council may make regulations

 - (c) prescribing the form of returns, receipts and other documents;*

(12.1) The Provincial Treasurer may prescribe the form of returns for the purposes of this section.

(c) *by repealing subsection (14) and substituting the following:*

(14) In subsection (13), “municipal taxes” and “mobile unit licence fee” have the same meaning as in the *Alberta Property Tax Reduction Act*.

(15) In subsection (13), “residence” has the same meaning as in the *Alberta Property Tax Reduction Act* and includes leased land on which an owner occupied residence is located.

5(1) *Section 8.4 is amended*

(a) *in subsection (1)(a)(ii) by adding “or 66.4(5)(a)” after “66.2(5)(a)”;*

(b) *in subsections (7.1)(b) and (7.2)(b) by striking out “or 66.2” and substituting “, 66.2 or 66.4”.*

(2) *Subsection (1) applies to taxation years ending on or after December 12, 1979.*

6 *Section 8.5 is amended*

(a) *in subsection (6) by striking out “subsections (4), (7) and (8)” and substituting “subsection (4)”;*

(b) *by adding the following after subsection (6):*

(6.1) For the purposes of subsections (7) and (8), the maximum allowable credit of a group of associated corporations for taxation years ending in the same calendar year is the lesser of

(a) \$1 000 000, and

(b) that proportion of \$1 000 000 that the number of days in the taxation year of the associated corporation with the longest taxation year bears to 365.

(c) *in subsection (7)*

(i) *by striking out “the same taxation” and substituting “taxation years ending in the same calendar”;*

(14) In subsection (13) the terms "municipal taxes", "residence" and "mobile unit licence fee" have the same respective meanings as in The Alberta Property Tax Reduction Act.

5 Incorporates in the royalty tax rebate a reference to the federal provision respecting slower expensing of resource property acquisition costs.

6 Royalty tax credit.

(ii) by striking out “exceeds” and substituting “, but for this subsection, would exceed”.

7 Section 8.7 is amended

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

(a) the amount, if any, by which

(i) the aggregate of all amounts each of which is the income of the corporation for the year from an active business carried on in Canada, as determined for the purposes of section 125 of the federal Act, other than the income of the corporation from a business carried on by it as a member of a partnership,

(ii) the aggregate of all amounts each of which is an amount in respect of a partnership of which the corporation was a member other than a partnership to which it was joined in the year equal to the lesser of

(A) for each fiscal period of the partnership coinciding with or ending in the year, the corporation’s income from an active business carried on in Canada by it as a member of the partnership, and

(B) the specified limit of the corporation for the year in respect of the partnership, and

(iii) the aggregate of all amounts each of which is an amount in respect of a group of connected partnerships to which the corporation was joined in the year equal to the lesser of

(A) the amount, if any, by which

(I) the aggregate of all amounts each of which is an amount in respect of a partnership in the group for a fiscal period of the partnership coinciding with or ending in the year, equal to the corporation’s income from an active business carried on in Canada by it as a member of the partnership

exceeds

(II) the aggregate of all amounts each of which is an amount in respect of a partnership in the group for a fiscal period of the partnership coinciding with or ending in the year, equal to the corporation’s loss from an active business carried on in Canada by it as a member of the partnership, and

7 Amends the small business deduction section.

(B) the specified limit of the corporation for the year in respect of the group of connected partnerships

exceeds the aggregate of

(iv) the aggregate of all amounts each of which is a loss of the corporation for the year from an active business carried on in Canada, as determined for the purposes of section 125 of the federal Act, other than a loss from a business carried on by it as a member of a partnership to which it was joined in the year,

(v) the aggregate of all amounts each of which is an amount in respect of a group of connected partnerships to which the corporation was joined in the year equal to the amount, if any, by which the amount determined in respect of the corporation for the year under subclause (iii)(A)(II) exceeds the amount determined in respect of the corporation for the year under subclause (iii)(A)(I), and

(vi) the attributed Canadian royalty income used by the corporation in the calculation of its royalty tax rebate for the taxation year;

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

(2.1) For the purposes of subsection (2),

(a) the references to a partnership or connected partnership in subsection (2) shall only apply to the partnership's fiscal periods commencing after December 11, 1979;

(b) the definitions contained in section 125 of the federal Act that take effect after December 11, 1979, as modified by subsection (1.1), apply.

8 Section 11(6) is repealed and the following is substituted:

(6) Where a taxpayer has filed the return required by section 9 for a taxation year and, within 1 year from the day on or before which he was required by section 9 to file the return for that year, has amended the return by filing with the Provincial Treasurer a prescribed form 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(1) Section 12 is amended

8 Section 11(6) presently reads:

(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 12(1) presently reads:

(a) in subsection (1) by adding “or” at the end of clause (k), by repealing all that follows clause (k) and by substituting the following:

(l) a termination payment,

at any time in a taxation year shall deduct or withhold therefrom such amount as may be determined in accordance with regulations and shall, at such time as may be prescribed, remit that amount to the Provincial Treasurer on account of the payee’s tax for the year under this Act.

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

(1.1) Where the Provincial Treasurer is satisfied that the deducting or withholding of the amount otherwise required to be deducted or withheld under subsection (1) from a payment would cause undue hardship, he may determine a lesser amount and that amount shall be deemed to be the amount determined under that subsection as the amount to be deducted or withheld from that payment.

(1.2) Where a taxpayer so elects in prescribed manner and prescribed form, the amount required to be deducted or withheld under subsection (1) from any payment to him shall be deemed to be the aggregate of

(a) the amount, if any, otherwise required to be deducted or withheld under that subsection from that payment, and

(b) the amount specified by the taxpayer in that election with respect to that payment or with respect to a class of payments that included that payment.

(1.3) For the purposes of subsection (1), where a trustee who is administering, managing, distributing, winding up, controlling or otherwise dealing with the property, business, estate or income of another person authorizes or otherwise causes a payment referred to in subsection (1) to be made on behalf of that other person, the trustee shall be deemed to be a person making the payment and the trustee and that other person shall be jointly and severally liable in respect of the amount required under subsection (1) to be deducted or withheld and to be remitted on account of the payment.

(1.4) In subsection (1.3), “trustee” includes a liquidator, receiver, receiver-manager, trustee in bankruptcy, assignee, executor, administrator, sequestrator or any other person performing a function similar to that performed by any of those persons.

(2) Subsection (1) applies to the 1979 and subsequent taxation years.

12(1) Every person paying

(a) salary or wages or other remuneration to an officer or employee, or

(b) a superannuation or pension benefit, or

(c) a retiring allowance, or

(d) an amount upon or after the death of an officer or employee, in recognition of his service, to his legal representative or widow or to any other person whatsoever, or

(d.1) an amount as a benefit under the Unemployment Insurance Act, 1971 (Canada), or

(e) an amount as a benefit under a supplementary unemployment benefit plan, or

(f) an annuity payment, or

(g) fees, commissions or other amounts for services, or

(h) a payment under a deferred profit sharing plan or a plan referred to in section 147 of the federal Act as a revoked plan, or

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

(i) an adult training allowance under the Adult Occupational Training Act (Canada), or

(j) a payment out of or under a registered retirement savings plan or a plan referred to in section 146, subsection (12) of the federal Act as an "amended plan", or

(k) an amount as, on account or in lieu of payment of, or in satisfaction of, proceeds of the surrender, cancellation or redemption of an income-averaging annuity contract,

at any time in a taxation year shall deduct or withhold therefrom such amount as may be prescribed and shall, at such time as may be prescribed, remit that amount to the Provincial Treasurer on account of the payee's tax for the year under this Act.

10(1) Section 19(1) is repealed and the following is substituted:

19(1) Every person who fails to file a return as and when required by section 9(1) is liable to a penalty equal to the aggregate of

(a) an amount equal to 5% of the tax that was unpaid when the return was required to be filed, and

(b) the product obtained when 1% of the tax that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding 12, in the period between the date on which the return was required to be filed and the date on which the return was filed.

(2) Subsection (1) is applicable

(a) with respect to returns required to be filed, but not filed, before 1982, and

(b) with respect to returns required to be filed after 1981.

11 Section 34 is amended

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

34(1) In this section,

(a) “tax debtor” means a person who is or is about to become indebted or liable to make a payment under this Act;

(b) “institution” means a bank, credit union, trust company, treasury branch or other similar person.

(1.1) Where the Provincial Treasurer has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a tax debtor, he may, by registered letter or by a letter served personally, require that person to pay the money otherwise payable to the tax debtor in whole or in part to the Provincial Treasurer on account of the tax debtor’s liability under this Act.

(1.2) Without limiting the generality of subsection (1), where the Provincial Treasurer has knowledge or suspects that an institution is about to advance money to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by, a tax debtor who is indebted to the institution and who has granted security to the institution in respect of the indebtedness, he may, by registered

10 Section 19(1) presently reads:

19(1) Every person who has failed to make a return as and when required by section 9, subsection (1) is liable to a penalty of

(a) an amount equal to five per cent of the tax that was unpaid when the return was required to be filed, if the tax payable under this Act that was unpaid at that time was less than two thousand dollars, and

(b) one hundred dollars, if at the time when the return was required to be filed tax payable under this Act equal to two thousand dollars or more was unpaid.

11 Section 34 presently reads in part:

34(1) When the Provincial Treasurer has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment under this Act, he may, by registered letter or by a letter served personally, require him to pay the moneys otherwise payable to that person in whole or in part to the Provincial Treasurer on account of the liability under this Act.

(3) Where the Provincial Treasurer has, under this section, required an employer to pay to the Provincial Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Provincial Treasurer out of each payment of remuneration of such amount as may be stipulated by the Provincial Treasurer in the registered letter.

(4) Every person who has discharged any liability to a person liable to make a payment under this Act without complying with a requirement under this section is liable to pay to Her Majesty in right of Alberta an amount equal to the liability discharged or the amount which he was required under this section to pay to the Provincial Treasurer, whichever is the lesser.

letter or by a letter served personally, require the institution to pay to the Provincial Treasurer on account of the tax debtor's liability under this Act the money that would otherwise be so advanced or paid.

(b) by repealing subsections (3) and (4) and substituting the following:

(3) Where the Provincial Treasurer has, under this section, required a person to pay to the Provincial Treasurer on account of the liability under this Act of a tax debtor money otherwise payable by the person to the tax debtor as interest, rent, remuneration, a dividend, an annuity or other periodic payment, the requirement is applicable to all such payments to be made by the person to the tax debtor until the liability under this Act is satisfied and operates to require payments to the Provincial Treasurer out of each payment of such amount as may be stipulated by the Provincial Treasurer in the registered letter or letter served personally.

(4) Every person who fails to comply with a requirement under subsection (1.1) or (3) is liable to pay to Her Majesty in right of Alberta an amount equal to the amount that he was required under subsection (1.1) or (3), as the case may be, to pay to the Provincial Treasurer.

(4.1) Every institution that fails to comply with a requirement under subsection (1.2) is liable to pay to Her Majesty in right of Alberta an amount equal to the lesser of

- (a) the aggregate of the money advanced or paid, or
- (b) the amount that it was required under subsection (1.2) to pay to the Provincial Treasurer.

12 Section 37(2) and (3) are repealed and the following is substituted:

(2) Where a person is required by regulations made under section 12(1) to deduct or withhold from a payment to another person an amount on account of that other person's tax for the year, that other person shall, from time to time as prescribed, file a return with the person in prescribed form.

(3) Every person who fails to file a return as required by subsection (2) is liable to have the deduction or withholding under section 12 on account of his tax made as though he were an unmarried person without dependants.

13 Section 41 is repealed and the following is substituted:

41 Whether or not he has filed an information return as required

12 Section 37 presently reads in part:

(2) Every person whose employer is required to deduct or withhold any amount from his remuneration under section 12 shall, from time to time as prescribed, file a return with his employer in the prescribed form.

(3) Every person failing to file a form as required by subsection (2) is liable to have the deduction or withholding from his salary or wages under section 12 made as though he were an unmarried person without dependants.

13 Section 41 presently reads:

41 Whether or not he has filed an information return as required by

by a regulation made under paragraph 221(1)(d) of the federal Act as it applies by virtue of section 30(2), every person shall, on demand from the Provincial Treasurer, served personally or by registered mail, file with the Provincial Treasurer, within such reasonable time as may be stipulated in the demand, such prescribed information return as is designated therein.

14(1) Section 2 of this Act shall be deemed to have been in force on and from January 1, 1980.

(2) Sections 4(c) and 6 of this Act shall be deemed to have been in force on and from January 1, 1981.

(3) Sections 7 and 8 of this Act shall be deemed to have been in force on and from December 12, 1979.

In accordance with section 4(1) of The Interpretation Act, 1980, this Bill, except sections 2, 4(c), 6, 7 and 8 comes into force on the date it receives Royal Assent.

a regulation made under section 221, subsection (1), paragraph (d) of the federal Act as it applies by virtue of section 30, subsection (2) of this Act, every person shall, on demand by registered letter from the Provincial Treasurer, file within such reasonable time as may be stipulated in the registered letter, with the Provincial Treasurer such prescribed information return as is designated in the letter.