

1982 BILL 37

Fourth Session, 19th Legislature, 31 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 37

**ALBERTA INCOME TAX
AMENDMENT ACT, 1982**

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 37

1982

ALBERTA INCOME TAX AMENDMENT ACT, 1982

(Assented to _____, 1982)

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 11 is amended by adding the following after subsection (1):*

(1.1) A computation under subsection (1) of attributed Canadian royalty income shall not include an amount referred to in paragraph 83.1(1)(c) of the *Petroleum and Gas Revenue Tax Act* (Canada).

3(1) *Section 12 is amended*

(a) *in subsection (2) by adding “but subsection (3) shall not apply to entitle a taxpayer to a royalty tax credit with respect to attributed Alberta royalty income of a business whose fiscal year ends after 1981” after “fiscal period of that business”;*

(b) *by repealing subsection (3) and substituting the following:*

(3) Subject to this section and the regulations, an individual who has attributed Alberta royalty income in a taxation year is entitled to a royalty tax credit for that taxation year in an amount equal to the lesser of

(a) the aggregate of 25% of the individual's attributed Alberta royalty income for the year and 50% of that portion of the individual's attributed Alberta royalty income that arose in the taxation year from royalties receivable or payable after August 31, 1981, and

(b) the aggregate of

(i) the lesser of

Explanatory Notes

- 1 This Bill amends chapter A-31 of the Revised Statutes of Alberta 1980.
- 2 Excludes royalties which will no longer be included in non-deductible royalty income.
- 3 Section 12(2), (3), (4), (6), (7) and (8) presently read:
 - (2) *When*
 - (a) *an individual's income includes income from a business the fiscal period of which does not coincide with the calendar year, and*
 - (b) *the income from that business consists of or includes income from oil or gas wells,*

then, for the purposes of this section, a reference to a taxation year shall, with respect to that individual, be read as a reference to a fiscal period of that business.
 - (3) *Subject to this section and the regulations, an individual who has attributed Alberta royalty income in a taxation year is entitled to a royalty tax credit for that taxation year in an amount equal to the lesser of*
 - (a) *25% of the individual's attributed Alberta royalty income for the year, and*
 - (b) *the lesser of*
 - (i) *\$1 000 000, and*

(A) \$1 000 000, and

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

(ii) the lesser of

(A) \$3 000 000, and

(B) that proportion of \$3 000 000 that the number of days after August 31, 1981 in the taxation year bears to 365.

(c) by repealing subsection (4)(c) and substituting the following:

(c) 25% of the corporation's attributed Alberta royalty income, in the case of the 1976 and subsequent taxation years ending before September 1, 1981,

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

(4.1) Notwithstanding subsection (4)(c), if a corporation has attributed Alberta royalty income in a taxation year, part of which is before September 1, 1981 and part of which is after August 31, 1981, or has attributed Alberta royalty income in a taxation year ending before September 1, 1981 when it is associated with another corporation in a taxation year of the other corporation, part or all of which is after August 31, 1981, it is entitled to a royalty tax credit for the year in an amount equal to the aggregate of

(a) the lesser of

(i) 25% of the corporation's attributed Alberta royalty income for the year, and

(ii) the maximum allowable credit for the taxation year,

and

(b) the lesser of

(i) 50% of the corporation's attributed Alberta royalty income for the period in the year after August 31, 1981, and

(ii) the additional maximum allowable credit for the taxation year.

(e) in subsection (6) by striking out "subsection (4)" and substituting "subsections (4) and (4.1)(a)";

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

(4) Subject to this section and the regulations, a corporation that has attributed Alberta royalty income in a taxation year is entitled to a royalty tax credit for the taxation year in an amount equal to

(a) 30% of the corporation's attributed Alberta royalty income, in the case of the 1974 taxation year,

(b) 28% of the corporation's attributed Alberta royalty income, in the case of the 1975 taxation year, and

(c) 25% of the corporation's attributed Alberta royalty income, in the case of the 1976 taxation year and each subsequent taxation year,

but not exceeding the maximum allowable credit for the taxation year.

(6) For the purposes of subsection (4), the maximum allowable credit for a taxation year is the lesser of

(a) \$1 000 000, and

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

(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.

(7) If each of 2 or more associated corporations are entitled to a royalty tax credit for taxation years ending in the same calendar year and the aggregate amount of the royalty tax credits of those corporations for the taxation year, but for this subsection, would exceed the maximum allowable credit for the year, the royalty tax credit for each of those corporations for that taxation year shall be that proportion of the maximum allowable credit allocated to the corporation by an agreement made between those corporations setting out the proportions in which the maximum allowable credit is to be divided among them.

(8) An agreement referred to in subsection (7) shall be filed with the Provincial Treasurer but if no agreement is filed within 30 days after notice in writing by the Provincial Treasurer has been forwarded to any of the associated corporations that such an agreement is required for the purposes of this section, the Provincial Treasurer shall, for the purpose of this section, allocate an amount to one or more of them for the taxation year, which amount or the aggregate of which amounts, as the case may be, shall be equal to the maximum allowable credit for the taxation year, and in any such case, notwithstanding subsection (7), the maximum allowable credit for the taxation year for each of the associated corporations is the amount allocated to it under this subsection.

(f) by adding the following after subsection (6.1):

(6.2) For the purposes of subsection (4.1)(b), the additional maximum allowable credit for the taxation year is the lesser of

(a) \$3 000 000, and

(b) that proportion of \$3 000 000 that the number of days in the taxation year after August 31, 1981 bears to 365.

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

(a) \$3 000 000, and

(b) that proportion of \$3 000 000 that the number of days after August 31, 1981 in the taxation year of the corporation in the group whose taxation year contains the greatest number of days after August 31, 1981 bears to 365.

(g) by repealing subsections (7) and (8) and substituting the following:

(7) If 2 or more associated corporations are entitled to a royalty tax credit for taxation years ending in the same calendar year and with respect to the royalty tax credits to which those corporations would be entitled for the taxation year, but for this subsection, either the aggregate of the amounts determined under subsection (4.1)(a)(i) exceeds the aggregate of the maximum allowable credits for the year or the aggregate of the amounts determined under subsection (4.1)(b)(i) exceeds the aggregate of the additional maximum allowable credits for the year, the royalty tax credit for each of those corporations for that taxation year shall be the aggregate of that proportion of the maximum allowable credit of the group of associated corporations determined under subsection (6.1) and that proportion of the additional maximum allowable credit of the group of associated corporations determined under subsection (6.3) allocated to the corporation by an agreement made among those corporations that sets out the proportions in which the maximum allowable credit and the additional maximum allowable credit are to be allocated among them.

(8) An agreement referred to in subsection (7) shall be filed with the Provincial Treasurer but if no agreement is filed within 30 days after notice in writing by the Provincial Treasurer has been forwarded to any of the associated corporations that such an agreement is required for the pur-

poses of this section, the royalty tax credit of an associated corporation shall be the aggregate of the maximum allowable credit and the additional maximum allowable credit allocated to the corporation under subsection (8.1).

(8.1) For the purposes of subsection (8), the Provincial Treasurer shall allocate to 1 or more of the associated corporations

(a) a maximum allowable credit, but the aggregate of the maximum allowable credits allocated shall not exceed the maximum allowable credit of the group of associated corporations determined under subsection (6.1), and

(b) an additional maximum allowable credit, but the aggregate of the additional maximum allowable credits allocated shall not exceed the additional maximum allowable credit of the group of associated corporations determined under subsection (6.3).

(2) *Subsection (1) applies to the 1981 taxation year.*

4(1) *The following is added after section 12:*

12.1(1) In this section,

(a) “Alberta crown royalty” of an individual for a taxation year means the aggregate of

(i) any amount required to be included in computing the individual’s income for the year by virtue of paragraph 12(1)(o) of the federal Act, and

(ii) any amount in respect of which no deduction is allowed in computing the individual’s income for the year by virtue of paragraph 18(1)(m) of the federal Act,

less any amount that

(iii) is a reimbursement received by the individual under the terms of a contract if the reimbursement was for an amount paid or payable by the individual that is

(A) required to be included in computing his income by virtue of paragraph 12(1)(o) of the federal Act, or

(B) denied as a deduction in computing his income by virtue of paragraph 18(1)(m) of the federal Act

and each of which is or is in respect of a royalty receivable by or payable to 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.

4 Provides for an increase in royalty tax credits.

- (2) An individual who has Alberta crown royalty in a taxation year is entitled to a royalty tax credit for the year in an amount equal to the lesser of
- (a) the percentage specified in subsection (3) of his Alberta crown royalty for the year, and
 - (b) his maximum allowable credit for the year.
- (3) The specified percentage of an individual's Alberta crown royalty for a taxation year is,
- (a) for the 1982 and 1983 taxation years, 75%, or
 - (b) for the 1984 and subsequent taxation years, 50%.
- (4) An individual's maximum allowable credit for a taxation year is,
- (a) for the 1982 and 1983 taxation years, the lesser of
 - (i) \$4 000 000, and
 - (ii) that proportion of \$4 000 000 that the number of days in the taxation year bears to 365, and
 - (b) for the 1984 and subsequent taxation years, the lesser of
 - (i) \$2 000 000, and
 - (ii) that proportion of \$2 000 000 that the number of days in the taxation year bears to 365.
- (5) If an individual is a member of a partnership, his share of the amount that would be Alberta crown royalty of that partnership if the partnership were an individual shall be deemed to be Alberta crown royalty of the individual.
- (6) Notwithstanding subsection (3), if an individual has Alberta crown royalty in a taxation year with respect to a business or partnership,
- (a) in a 1982 taxation year, if the fiscal period of the business or partnership commenced before September 1, 1981, the specified percentage with respect to the portion of his Alberta crown royalty that arose from royalties that became receivable or payable by that business or partnership before September 1, 1981 shall be 25%, and
 - (b) in a 1984 taxation year, if the fiscal period of the business or partnership commenced before 1984, the specified percentage with respect to the portion of his Alberta crown royalty that arose from royalties that became receivable or payable by that business or partnership before January 1, 1984 shall be 75%.

(7) If an individual has Alberta crown royalty in a taxation year with respect to a business or partnership, the amount determined under subsection (2)(a) with respect to the portion of his Alberta crown royalty that arose from royalties receivable or payable by that business or partnership in its fiscal period shall not exceed that proportion of,

(a) for the 1982 and 1983 taxation years, \$4 000 000, and

(b) for the 1984 and subsequent taxation years, \$2 000 000

that the number of days in the fiscal period of the business or partnership, as the case may be, bears to 365.

(8) In computing the Alberta crown royalty of an individual, no amount shall be included that would, if included, artificially increase the Alberta crown royalty income of that individual.

(9) If, in the opinion of the Provincial Treasurer, an individual and another individual or a corporation have at any time in a taxation year entered into 1 or more sales, exchanges, declarations of trust or other transactions that

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

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

the Provincial Treasurer may direct that the individual is not entitled to a royalty tax credit for the taxation year or subsequent taxation years.

(10) A direction made under subsection (9)

(a) shall not apply to a taxation year of any individual prior to the taxation year for which the direction is made or to a taxation year commencing before January 1, 1982, and

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

(11) If an individual is entitled to a royalty tax credit for a taxation year, the Provincial Treasurer

(a) may apply the amount of the credit as payment of any tax, interest, penalty or other amount otherwise owing by the individual for that or any preceding taxation year under this Act, the *Canada Pension Plan*, the *Unemployment Insurance Act, 1971* (Canada), the income tax statute of an agreeing province or the federal Act, and

(b) if the amount of the credit exceeds any applications under clause (a), shall pay the amount of the excess to the individual from the taxes, interest and penalties collected under this Act.

(12) An individual may apply for a royalty tax credit in respect of a taxation year by filing an application in the prescribed form with the Provincial Treasurer with the return required under section 15(1) or on a date after that return has been filed.

(13) No individual is entitled to a royalty tax credit until he has filed an application in accordance with subsection (12).

(14) In order to be entitled to a royalty tax credit under this section, an individual shall retain and produce, on demand by the Provincial Treasurer, a true and complete copy of all documents relating to his Alberta crown royalty and his royalty tax credit, including any partnership agreements and the legal description of the property in respect of which the royalty tax credit is claimed.

(2) Subsection (1) applies to the 1982 and subsequent taxation years.

5 Section 2 comes into force on Proclamation and shall be deemed to have come into force on a date prior to or after the day on which this Act is assented to that is fixed by the Proclamation.

In accordance with section 4(1) of the Interpretation Act, this Bill, except section 2, comes into force on the date it receives Royal Assent.