

1986 BILL 2

Fourth Session, 20th Legislature, 35 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 2

ALBERTA STOCK SAVINGS PLAN ACT

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 2

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1986

ALBERTA STOCK SAVINGS PLAN ACT

(Assented to , 1986)

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Interpretation

1(1) In this Act,

(a) “certificate of eligibility” means a certificate of eligibility issued pursuant to section 4;

(b) “common share” means a share of a corporation

(i) the holder of which is not precluded on the reduction or redemption of the capital stock from participating in the assets of the corporation beyond the amount paid up on the

share plus a fixed premium and a defined rate of dividend,
and

(ii) that carries a number of voting rights in the issuing corporation, in all circumstances and regardless of the number of shares held, that is not less than the number attached to any other share of the capital stock of that corporation;

(c) “eligible corporation” means a corporation to which a certificate of eligibility is issued;

(d) “eligible share” means a share described in section 3;

(e) “emerging corporation” means an eligible corporation described in section 6(1);

(f) “expanding corporation” means an eligible corporation described in section 6(2);

(g) “mature corporation” means an eligible corporation described in section 6(3);

(h) “preferred share” means a share of a corporation that is not a share described in clause (b)(i);

(i) “qualified dealer” means a person who

(i) is registered to trade in securities as principal or agent under the *Securities Act*,

(ii) is a member of the Alberta Stock Exchange, and

(iii) has a permanent establishment in Alberta;

(j) “specified share issue” means a distribution as defined in the *Securities Act* of shares or warrants and shares

(i) made pursuant to a prospectus that has been filed and for which a receipt has been obtained under the *Securities Act*,
or

(ii) that is exempt from the filing of a prospectus pursuant to section 107(1)(b), (d), (h), (l), (m), (p), (q) or (z) of the *Securities Act*;

(k) “statement of investment” means a statement provided by a qualified dealer pursuant to section 2;

(l) “stock savings plan” means an arrangement described in section 2;

(m) “underwriter” means an underwriter as defined in the *Securities Act*;

(n) “warrant” means a right to subscribe for a share of a corporation.

(2) For the purposes of this Act, except when they are at variance with the definitions and interpretations contained in this Act, the definitions and interpretations contained in or made by or under the *Income Tax Act* (Canada) or the *Alberta Income Tax Act* apply.

(3) For the purposes of this Act, the assets of a corporation for a taxation year are the aggregate of

(a) the assets of the corporation at the end of that taxation year as shown in the financial statements for that taxation year less the sum of

(i) the appraisal surplus of the assets, and

(ii) the amount, if any, by which the intangible assets exceed the expenditure made in respect of the intangible assets,

and

(b) if the corporation is a member of a partnership at the end of that taxation year, the amount, if any, by which

(i) the proportionate share of the assets of the partnership at the end of the partnership's last fiscal period ending on or before the end of that taxation year to which the corporation would be entitled if the partnership were dissolved

exceeds

(ii) the corporation's partnership interest at the end of the partnership's last fiscal period ending on or before the end of that taxation year.

Stock
savings plan

2(1) A stock savings plan is an arrangement, other than a retirement savings plan, between a qualified dealer and an individual who is not a trust under which the dealer holds those eligible shares owned by the individual that the individual designates for the purpose of entitling the individual to a stock savings plan tax credit for any taxation year.

(2) A qualified dealer shall hold a share in a stock savings plan for an individual only if

(a) the share is an eligible share, and

(b) the individual is the first purchaser, other than a qualified dealer acting as agent or underwriter, of the share.

(3) Before March 1 in each year, a qualified dealer who held eligible shares under a stock savings plan for an individual during the preceding calendar year shall provide the individual with a statement of investment in the prescribed form in respect of that stock savings plan.

Eligible shares

3(1) A share is an eligible share if it meets all the following requirements:

(a) it is

(i) a common share that cannot, under the conditions attaching to its issuance, be purchased or redeemed by the corporation that issued it or by any other corporation, or

(ii) a preferred share issued by an emerging corporation

(A) which by its terms and conditions is at the option of the holder convertible at any time only into common shares of the corporation that comply with subclause (i) and are not described in subsection (2), and

(B) which cannot be purchased or redeemed by the corporation that issued it or by any other corporation under the conditions attaching to its issuance other than a condition that allows for its purchase or redemption

(I) only at the option of the holder of the share at any time after 3 years from the date it is issued,

(II) only at the option of the corporation in circumstances in which the common shares into which the share is convertible have traded for not less than 4 consecutive weeks at a weighted average price that, when expressed as a percentage of the conversion price, exceeds 100%, or

(III) in circumstances in which the corporation is required to purchase a specified percentage, not to exceed, in any given year, 5% of the shares of the original specified share issue, only during a period when shares of that type and class of the corporation are trading at a price that is not greater than the subscription price of the share;

(b) it is listed and posted for trading on the Alberta Stock Exchange at the time it is issued;

(c) it is issued and paid for;

(d) it is issued by an eligible corporation as part of the specified share issue in respect of which a certificate of eligibility is issued that is not revoked at the time the share is acquired by an individual;

(e) it is issued by a corporation that gives notice in the prospectus filed in respect of the specified share issue, or, if no prospectus is required, gives notice in the prescribed form to potential investors

(i) that a certificate of eligibility has been issued to the corporation in respect of the specified share issue,

(ii) of the date of the certificate of eligibility, and

(iii) that the corporation is classified as an emerging corporation, an expanding corporation or a mature corporation, as the case may be;

(f) it is acquired on or before December 31, 1989 pursuant to the specified share issue;

(g) the share certificate evidencing the share is

(i) remitted directly to the qualified dealer by the corporation or by a qualified dealer who certifies that the certificate was held, without interruption from its issue, by a qualified dealer acting as agent or underwriter, or

(ii) issued and registered by the corporation in the name of a qualified dealer or of a person designated by a qualified dealer.

(2) Notwithstanding subsection (1), a share is not an eligible share if any of the following applies to it:

- (a) it entitles the holder of the share to
 - (i) a grant under the *Small Business Equity Corporations Act*, or
 - (ii) a tax credit under section 127.2 or 127.3 of the *Income Tax Act* (Canada);
- (b) it is acquired by the individual pursuant to an agreement described in subparagraph 66.1(6)(a)(v), 66.2(5)(a)(v) or 66.4(5)(a)(iii) of the *Income Tax Act* (Canada);
- (c) it is acquired by the individual as a stock dividend;
- (d) it is acquired by the individual pursuant to an agreement or arrangement between the corporation and
 - (i) its employees,
 - (ii) the employees of a corporation with which it is associated, or
 - (iii) a trustee acting on behalf of the employees of the corporation or a corporation with which it is associated;
- (e) it is acquired by the individual pursuant to a plan that is made available by the corporation to every holder of a class of its shares that permits the holder to direct that dividends paid in respect of issued shares of the corporation be applied to the purchase from the corporation of any shares of the corporation.

(3) Notwithstanding subsection (1), if an eligible share is issued as part of a specified share issue for which a certificate of eligibility is issued and the certificate of eligibility is not valid because the first share in the specified share issue is subscribed for more than 90 days after the date of the certificate of eligibility, the share shall be deemed never to have been an eligible share.

(4) Notwithstanding subsection (1), a share is an eligible share if it is acquired after December 31, 1989 and meets the prescribed conditions.

Certificate of
eligibility

4(1) The Provincial Treasurer may issue a certificate of eligibility to a corporation if

- (a) the corporation applies in the prescribed form not more than 3 years after the date on which this Act is assented to,
- (b) the corporation is incorporated in Canada,
- (c) the corporation has a permanent establishment in Alberta on the date of the certificate,
- (d) the corporation is not engaged in any prescribed activity on the date of the certificate,
- (e) the aggregate of all the wages and salaries paid in the last taxation year of the corporation that ends before the date of the certificate of eligibility to employees of the permanent establish-

ment in Alberta is not less than 25% of all wages and salaries paid in the year by the corporation,

(f) unless it is a prescribed corporation, not more than 50% of the assets of the corporation for the last taxation year of the corporation that ends before the date of the certificate of eligibility consists of

- (i) debentures,
- (ii) bonds,
- (iii) guaranteed investment certificates,
- (iv) loans,
- (v) units of a mutual trust fund,
- (vi) units representing, or subscription rights or purchasing rights to units representing, an undivided interest in a project or property other than an asset used or held in the course of a business carried on by the corporation,
- (vii) cash on hand or on deposit other than, in the case of a corporation that was incorporated in the last 6 months preceding the date of the certificate of eligibility, the cash contributed by the shareholders, and
- (viii) shares, other than voting shares representing at least 20% of the votes of all the voting shares of a corporation that meets all the requirements of clauses (b) to (g),

(g) unless it is a prescribed corporation, the total assets of the corporation as determined in accordance with section 8 for the last taxation year of the corporation that ends before the date of the certificate of eligibility are not more than \$500 000 000,

(h) none of the shares in the specified share issue to which the certificate is to apply have been subscribed for on or before the date of the certificate of eligibility,

(i) the Provincial Treasurer is satisfied that the shares in the specified share issue will, when issued, meet the requirements of section 3(1)(a), (b) and (e) and are not shares described in section 3(2), and

(j) the application contains a declaration signed by

- (i) the chief executive officer of the corporation,
- (ii) the chief financial officer of the corporation, and
- (iii) any 2 directors of the corporation, other than those persons referred to in subclauses (i) and (ii), who are duly authorized by the board of directors of the corporation to sign on behalf of the board

as follows:

The information contained in this application for a certificate of eligibility under the *Alberta Stock Savings Plan Act* is true and does not omit any material fact that is required to be

stated or that is necessary to make a statement not misleading in light of the circumstances in which it is made.

(2) For the purposes of subsection (1)(e) and (f), if the corporation does not have a taxation year ending before the date of the certificate of eligibility, the taxation year of the corporation is deemed to end on the day before the date of the certificate of eligibility.

(3) The Provincial Treasurer may refuse to issue a certificate of eligibility if he is of the opinion that a corporation or any of its officers, directors or shareholders are conducting their business and affairs in a manner that is contrary to the spirit and intent of this Act.

(4) The Provincial Treasurer shall classify the corporation as an emerging, expanding or mature corporation when he issues the certificate of eligibility and shall include the classification as part of the certificate.

(5) The Provincial Treasurer may set as the date of the certificate of eligibility any date after he receives the application from the corporation.

(6) Before the Provincial Treasurer issues the certificate of eligibility he may require a corporation that applies for a certificate of eligibility to provide him with any relevant information he requests.

(7) A certificate of eligibility is valid only if the first share in the specified share issue to which it applies is subscribed for not more than 90 days after the date of the certificate of eligibility.

Return

5 Not more than 90 days after the first anniversary of the date of the certificate of eligibility, an eligible corporation shall file with the Provincial Treasurer a return in the prescribed form.

Emerging,
expanding
and mature
corporations

6(1) A corporation is an emerging corporation if in its last taxation year ending before the date of the certificate of eligibility

(a) the total revenue of the corporation is not more than \$6 000 000, or

(b) the total revenue of the corporation is more than \$6 000 000 and the total assets of the corporation are not more than \$5 000 000.

(2) A corporation is an expanding corporation if in its last taxation year ending before the date of the certificate of eligibility

(a) the total revenue of the corporation is more than \$6 000 000 and not more than \$20 000 000 and the total assets of the corporation are more than \$5 000 000, or

(b) the total revenue of the corporation is more than \$20 000 000 and the total assets of the corporation are more than \$5 000 000 and not more than \$50 000 000.

(3) A corporation is a mature corporation if it is not an emerging corporation or an expanding corporation.

Revenue

7(1) For the purposes of this section, the revenue of a corporation in a taxation year is an amount equal to the product of

- (a) the revenue of the corporation as disclosed in the financial statements of the corporation for the taxation year, and
 - (b) the ratio of 365 to the number of days in the taxation year.
- (2) For the purposes of section 6, if subsections (3) to (5) do not apply to an applicant, the total revenue of the applicant for the last taxation year of the applicant ending before the date of the certificate of eligibility is the revenue of the applicant for that taxation year.
- (3) For the purposes of section 6, if the applicant is associated with another corporation or corporations during the last taxation year of the applicant ending before the date of the certificate of eligibility, the total revenue of the applicant for that taxation year is the amount, if any, by which
 - (a) the sum of
 - (i) the revenue of the applicant for that taxation year, and
 - (ii) the aggregate of all amounts, each of which is the revenue of an associated corporation for its last taxation year ending on or before the end of the last taxation year of the applicant
 exceeds
 - (b) any amounts included in the revenue of the applicant or any of the associated corporations as a result of transactions between the corporations.
- (4) For the purposes of section 6, if the applicant is a new corporation formed by the amalgamation of 2 or more predecessor corporations and the applicant does not have a taxation year ending before the date of the certificate of eligibility, the total revenue of the applicant is the sum of the revenue of each predecessor corporation for its last taxation year.
- (5) For the purposes of subsection (3), if an applicant is associated with another corporation, in this subsection called the “associated corporation”, during the last taxation year of the applicant ending before the date of the certificate of eligibility, the associated corporation is a new corporation formed by the amalgamation of 2 or more predecessor corporations and the associated corporation does not have a taxation year ending on or before the end of the last taxation year of the applicant that ends before the date of the certificate of eligibility, the revenue of the associated corporation is the sum of the revenue of each predecessor corporation for its last taxation year.
- (6) For the purposes of subsections (4) and (5), if a predecessor corporation is associated with another corporation or corporations during the last taxation year of the predecessor corporation, the revenue of the predecessor corporation for that taxation year is the amount, if any, by which
 - (a) the sum of
 - (i) the revenue of the predecessor corporation for that taxation year, and
 - (ii) the aggregate of all amounts, each of which is the revenue of an associated corporation for its last taxation year ending

on or before the end of the last taxation year of the predecessor corporation

exceeds

(b) any amounts included in the revenue of the predecessor corporation or any of the associated corporations as a result of transactions between the corporations.

(7) For the purposes of this section, if an applicant does not have a taxation year ending before the date of the certificate of eligibility and subsection (4) does not apply to the applicant, the taxation year of the applicant is deemed to end on the day before the date of the certificate of eligibility.

(8) Notwithstanding subsections (3) to (6), the revenue of a corporation shall be included only once in the determination of the total revenue of an applicant for a taxation year.

(9) For the purposes of this section, a corporation that is a member of a partnership shall include in its revenue for a taxation year the percentage of the revenue of the partnership, as disclosed in the financial statements of the partnership for its last fiscal period ending on or before the end of that taxation year, that is represented by the corporation's participation in the profits of the partnership during that fiscal period of the partnership.

Assets

8(1) For the purposes of sections 4(1)(g) and 6, if subsections (2) and (3) do not apply to an applicant, the total assets of the applicant for the last taxation year of the applicant ending before the date of the certificate of eligibility are the assets of the applicant for that taxation year.

(2) For the purposes of sections 4(1)(g) and 6, if the applicant is associated with another corporation or corporations during the last taxation year of the applicant ending before the date of the certificate of eligibility, the total assets of the applicant for that taxation year are the amount, if any, by which

(a) the sum of

(i) the assets of the applicant for that taxation year, and

(ii) the aggregate of all amounts, each of which is the assets of an associated corporation for its last taxation year ending on or before the end of the last taxation year of the applicant

exceeds

(b) the sum of

(i) the investments the corporations own in each other, and

(ii) the balance of accounts between the corporations.

(3) For the purposes of sections 4(1)(g) and 6, if the applicant is a new corporation formed by the amalgamation of 2 or more predecessor corporations and the applicant does not have a taxation year ending before the date of the certificate of eligibility, the total assets of the applicant are the sum of the assets of each predecessor corporation for its last taxation year.

(4) For the purposes of subsection (2), if an applicant is associated with another corporation, in this subsection called the “associated corporation”, during the last taxation year of the applicant ending before the date of the certificate of eligibility, the associated corporation is a new corporation formed by the amalgamation of 2 or more predecessor corporations and the associated corporation does not have a taxation year ending on or before the end of the last taxation year of the applicant that ends before the date of the certificate of eligibility, the assets of the associated corporation are the sum of the assets of each predecessor corporation for its last taxation year.

(5) For the purposes of subsections (3) and (4), if a predecessor corporation is associated with another corporation or corporations during the last taxation year of the predecessor corporation, the assets of the predecessor corporation for that taxation year are the amount, if any, by which

(a) the sum of

(i) the assets of the predecessor corporation for that taxation year, and

(ii) the aggregate of all amounts, each of which is the assets of an associated corporation for its last taxation year ending on or before the end of the last taxation year of the predecessor corporation

exceeds

(b) the sum of

(i) the investments the corporations own in each other, and

(ii) the balance of accounts between the corporations.

(6) For the purposes of this section, if an applicant does not have a taxation year ending before the date of the certificate of eligibility and subsection (3) does not apply to the applicant, the taxation year of the applicant is deemed to end on the day before the date of the certificate of eligibility.

(7) Notwithstanding subsections (2) to (5), the assets of a corporation shall be included only once in the determination of the total assets of an applicant for a taxation year.

Association

9(1) For the purposes of this Act, one corporation is associated with another in a taxation year if at any time in the year it is associated with the other under the *Income Tax Act* (Canada).

(2) If with respect to 2 or more corporations the Provincial Treasurer is satisfied

(a) that the separate existence of those corporations at any time was not solely for the purpose of carrying out the business of those corporations in the most effective manner, and

(b) that one of the main reasons for the separate existence of the corporations is to qualify 1 or more of the corporations

(i) as an eligible corporation when it would not otherwise be an eligible corporation, or

(ii) as an emerging, expanding or mature corporation and thereby increase the eligible percentage applicable to an eligible share,

the 2 or more corporations shall, if the Provincial Treasurer directs, be deemed to be associated with each other for the purposes of sections 7 and 8.

Refusal to issue certificate

10(1) If the Provincial Treasurer refuses to issue a certificate of eligibility to a corporation, the Provincial Treasurer shall notify the corporation of the refusal, together with written reasons for it.

(2) If the Provincial Treasurer has not issued a certificate of eligibility to a corporation within 90 days after the date on which the corporation delivered an application for a certificate of eligibility to the Provincial Treasurer, the Provincial Treasurer shall be deemed to have refused to issue the certificate.

Request for information

11 An eligible corporation shall, on request by the Provincial Treasurer served personally or by certified mail or registered letter, file with the Provincial Treasurer, within any reasonable time stipulated in the request, any relevant information specified in the request.

Revocation and amendment of certificate

12(1) The Provincial Treasurer may revoke a certificate of eligibility if he determines at any time within 3 years after the date of the certificate of eligibility that

(a) the corporation to which the certificate of eligibility was issued did not meet the requirements of section 4(1),

(b) 1 or more shares in the specified share issue to which the certificate of eligibility applies were subscribed for on or before the date of the certificate, or

(c) the shares in the specified share issue when issued did not meet the requirements of section 3(1)(a), (b) or (e) or were shares described in section 3(2).

(2) The Provincial Treasurer may revoke a certificate of eligibility if he is satisfied at any time within 3 years after the date of the certificate of eligibility that an otherwise eligible share in the specified share issue to which the certificate of eligibility applies is

(a) issued by the eligible corporation in such circumstances that its holder is unable to exercise any real influence over the management of the corporation because the specified share issue of which it is part is preceded or followed by the issue of shares by which voting rights are procurable at an unreasonably lower cost per right to vote, or

(b) a common share carrying

(i) a profit-sharing right, or

(ii) a right to participate in case of dissolution

which is restricted when compared to that attached to common shares of another class.

(3) If the Provincial Treasurer determines at any time within 3 years after the date of the certificate of eligibility that the eligible corpora-

tion was incorrectly classified as an emerging, expanding or mature corporation, he may amend the certificate of eligibility to reflect the correct classification and the certificate of eligibility applies as amended to all eligible shares in the specified share issue that are acquired by an individual on or after the effective date of the amendment.

(4) If the Provincial Treasurer revokes or amends a certificate of eligibility, he shall notify the corporation in writing before the effective date.

(5) The effective date of the revocation or amendment of a certificate of eligibility is the day after the date on which the notice of revocation or amendment is published in The Alberta Gazette.

Payment on
revocation

13 If the Provincial Treasurer revokes a certificate of eligibility, the corporation to which the certificate was issued shall pay to the Provincial Treasurer an amount equal to the product obtained when the eligible percentage applicable to the eligible shares of the corporation before the effective date of revocation is multiplied by the aggregate of the cost amount of the shares issued before the effective date of revocation by the corporation pursuant to the specified share issue in respect of which the certificate of eligibility was issued, together with interest on that amount at the prescribed rate calculated from January 1 of the year following the year in which the date of the revoked certificate of eligibility occurs to the date of payment.

Payment on
amendment

14 If the Provincial Treasurer amends a certificate of eligibility, the eligible corporation shall pay to the Provincial Treasurer the amount, if any, by which

(a) the product obtained when the eligible percentage applicable to the eligible shares of the corporation before the effective date of the amendment is multiplied by the aggregate of the cost amount of the shares issued before the effective date of the amendment by the corporation pursuant to the specified share issue in respect of which the certificate of eligibility was issued

exceeds

(b) the product obtained when the eligible percentage applicable to the eligible shares of the corporation after the effective date of the amendment is multiplied by the aggregate of the cost amount of the shares issued before the effective date of the amendment by the corporation pursuant to the specified share issue in respect of which the certificate of eligibility was issued,

together with interest on that amount at the prescribed rate calculated from January 1 of the year following the year in which the date of the certificate of eligibility occurs to the date of payment.

Demand for
payment

15(1) When an amount is payable to the Provincial Treasurer under section 13 or 14, the Provincial Treasurer may, by notice of demand in writing to the person who owes the amount payable, demand that payment be made immediately or in the number of days specified in the demand, and, if the amount is not paid as demanded, the amount payable is a debt due to Her Majesty in right of Alberta and is recoverable as such in any court of competent jurisdiction.

(2) If a corporation has served a notice of objection under section 16, the Provincial Treasurer shall not, for the purpose of recovering the amount in controversy, take any action to recover that amount before the day that is 90 days after the day on which the Provincial Treasurer notifies the corporation of his decision under section 16.

(3) If the corporation has appealed to the Court of Queen's Bench under section 17, the Provincial Treasurer shall not, for the purpose of recovering the amount in controversy, take any action to recover that amount before the matter has been decided by the Court of Queen's Bench, and any appeal from that decision has been heard or the time for filing an appeal from that decision or from a decision of the Court of Appeal has passed.

Objection

16(1) A corporation that objects to

- (a) the refusal or deemed refusal of the Provincial Treasurer to issue a certificate of eligibility to it,
- (b) the revocation or amendment of a certificate of eligibility issued to it,
- (c) the classification of the corporation in a certificate of eligibility issued to it, or
- (d) a payment required to be made to the Provincial Treasurer by the corporation pursuant to section 13 or 14,

may serve on the Provincial Treasurer a notice of objection in the prescribed form setting out the reasons for the objection and all the relevant facts not more than 90 days after

- (e) the corporation receives notice of the refusal,
- (f) the date of the deemed refusal,
- (g) the effective date of the revocation or amendment,
- (h) the date of the certificate of eligibility, or
- (i) the corporation receives a notice of demand from the Provincial Treasurer in respect of the payment,

as the case may be.

(2) A notice of objection may be served on the Provincial Treasurer by certified mail or registered letter.

(3) The Provincial Treasurer may accept a notice of objection notwithstanding that it was not served in the manner required by subsection (2).

(4) On receipt of a notice of objection, the Provincial Treasurer shall, with all due dispatch, reconsider the matters objected to and may

- (a) issue, refuse to issue or restore a certificate of eligibility,
- (b) confirm the revocation of the certificate of eligibility,
- (c) confirm or vary the classification of the corporation in the certificate or amended certificate of eligibility, or
- (d) confirm or vary the payment.

Appeal

(5) The Provincial Treasurer shall notify the corporation making the objection of his decision under subsection (4) by registered mail.

17(1) If a corporation has served a notice of objection under section 16, it may appeal to the Court of Queen's Bench

(a) not more than 90 days after the Provincial Treasurer notifies the corporation of his decision under section 16, or

(b) if 90 days have elapsed after service of the notice of objection and the Provincial Treasurer has not notified the corporation that he has made a decision under section 16(4).

(2) An appeal to the Court shall be instituted by serving on the Provincial Treasurer a notice of appeal and by filing a copy of the notice with the clerk of the Court of a judicial district in which the corporation appealing has a permanent establishment.

(3) A notice of appeal may be served on the Provincial Treasurer by certified mail or registered letter.

(4) The corporation shall set out in the notice of appeal a statement of the allegations of fact, the statutory provisions and the reasons that it intends to submit in support of its appeal.

(5) For the purposes of section 18, the notice of appeal shall be deemed to be a statement of claim.

(6) The Provincial Treasurer shall, within 60 days from the day the notice of appeal is received, or within such further time as the Court may, either before or after the expiration of that time, allow, serve on the corporation and file in the Court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of the further allegations of fact and any applicable statutory provisions and any reasons he intends to rely on.

(7) The Court may strike out a notice of appeal or any part of the notice for failure to comply with subsection (4) and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out.

(8) The Court may

(a) strike out any part of a reply for failure to comply with subsection (6) or permit the amendment of a reply, or

(b) strike out a reply for failure to comply with subsection (6) and order a new reply to be filed within a time that it considers appropriate.

(9) If a notice of appeal is struck out for failure to comply with subsection (4) and a new notice of appeal is not filed as and when permitted by the Court, the Court may dismiss the appeal.

(10) If a reply is not filed as required by subsection (6) or is struck out under subsection (8) and a new reply is not filed as ordered by the Court within the time ordered, the Court may dispose of the appeal ex parte or after a hearing on the basis that the allegations of fact contained in the notice of appeal are true.

(11) On the filing of the material referred to in this section, the matter shall be deemed to be an action in the Court.

(12) A fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in any manner and on any terms that the Court may direct.

(13) The Court may

(a) dismiss the appeal, or

(b) allow the appeal and

(i) order the Provincial Treasurer to issue or amend a certificate of eligibility, or

(ii) vary the amount payable to the Provincial Treasurer pursuant to section 13 or 14.

(14) The Court may, in delivering judgment disposing of an appeal, order repayment of amounts previously paid to the Provincial Treasurer pursuant to section 13 or 14, and payment of interest and costs by the corporation or the Provincial Treasurer.

Practice and
procedure

18 The practice and procedure of the Court of Queen's Bench, including the right of appeal and the practice and procedure relating to appeals to the Court of Appeal or the Supreme Court of Canada, apply to every matter deemed to be an action under section 17, and every judgment and order given or made in each such action may be enforced in the same manner and by like process as a judgment or order given or made in an action commenced in the Court of Queen's Bench.

Extension of time

19(1) Notwithstanding sections 16 and 17, an application may be made to the Court of Queen's Bench by originating notice for an order extending the time within which a notice of objection under section 16 or a notice of appeal under section 17 is to be served and the Court may make an order extending the time for objecting or appealing, as the case may be, and may impose any terms it considers necessary.

(2) The Provincial Treasurer, at any time, may extend the time for filing a return under section 5.

(3) A copy of the originating notice referred to in subsection (1) shall be served on the Provincial Treasurer by being sent by certified mail or registered letter addressed to the Provincial Treasurer.

(4) No order shall be made under subsection (1)

(a) unless the application to extend the time for objecting or appealing is made within 1 year after the expiration of the time limited by this Act for objecting to or appealing from the decision in respect of which the application is made,

(b) if the Court has previously made an order extending the time for objecting to or appealing from the decision, as the case may be, and

- (c) unless the Court is satisfied that
 - (i) but for the circumstances mentioned in the application, an objection would have been made or taken within the time otherwise limited by this Act for so doing,
 - (ii) the application was brought as soon as circumstances permitted it to be brought, and
 - (iii) there are reasonable grounds for objecting to or appealing from the decision.

Records

20(1) A qualified dealer who holds shares under a stock savings plan and an eligible corporation shall keep the records and books of account prescribed by the Provincial Treasurer in the prescribed form.

(2) Records and books of account required to be kept under subsection (1) shall be kept

- (a) at the person's place of business or residence in Alberta, or
- (b) if the person has no place of business or residence in Alberta, at a place in Alberta or elsewhere approved in writing by the Provincial Treasurer under any terms and conditions he may impose.

(3) Notwithstanding subsection (2)(a), a person may keep the records and books of account at a place in Alberta or elsewhere approved in writing by the Provincial Treasurer under any terms and conditions the Provincial Treasurer may impose.

(4) If a person has failed to keep adequate records and books of account for the purposes of this Act, the Provincial Treasurer may require the person to keep those records and books of account that he may specify and that person shall then keep the records and books of account so required.

(5) Every person required by this section to keep records and books of account shall retain

- (a) the records and books of account in respect of which a period is prescribed by the Provincial Treasurer, together with every account and voucher necessary to verify the information in any record or book of account, for the prescribed period, and
- (b) all records and books of account other than those referred to in clause (a), together with every account and voucher necessary to verify the information contained in any record or book of account, until the expiration of 6 years from the end of the last taxation year to which the records and books of account relate.

(6) If a corporation required by this section to keep records or books of account serves a notice of objection under section 16 or a notice of appeal under section 17, the corporation shall retain every record, book of account and voucher necessary for dealing with the objection or appeal until the objection or appeal is disposed of and any further appeal is disposed of or the time for filing any further appeal has expired.

(7) Where the Provincial Treasurer is of the opinion that it is necessary for the administration of this Act, he may, by a demand served

personally or by registered letter or certified mail, require any person required by this section to keep records and books of account to retain those records and books of account, together with every account and voucher necessary to verify the information contained in the records and books of account, for any period specified in the demand.

(8) A person required by this section to keep records and books of account may dispose of the records and books of account referred to in this section, together with every account and voucher necessary to verify the information contained in the records and books of account, before the expiration of the period for which those records and books of account are required to be kept if written permission for their disposal is given by the Provincial Treasurer.

Audit and
examination
of books

21 Sections 62 to 65, 67 and 68 of the *Alberta Corporate Income Tax Act* apply for the purposes of this Act.

Communication
of information

22(1) Subject to subsection (2), a person who communicates or allows to be communicated any information obtained under this Act by a person while employed in the administration of this Act to a person not legally entitled to that information, or allows any person to inspect or have access to any written statement furnished under this Act, is guilty of an offence.

(2) Subsection (1) does not apply to the communication of information

(a) to employees of the Treasury Department solely for the purposes of evaluating and formulating tax policy, and

(b) to the Alberta Securities Commission for the purposes of administering this Act.

Offences

23(1) A person who contravenes any of the provisions of this Act for which a penalty is not otherwise provided is guilty of an offence and liable to a fine of not more than \$10 000.

(2) A person who

(a) makes or participates in, assents to or acquiesces in making false or deceptive statements in a return, application, certificate, statement or answer filed or made as required by or under this Act or a regulation,

(b) destroys, alters, mutilates, secretes or otherwise disposes of the records or books of account of a corporation, or

(c) conspires with any person to commit an offence described in clause (a) or (b),

in order to assist a corporation to obtain a certificate of eligibility to which it is not entitled is guilty of an offence and is liable to a fine not exceeding an amount equal to the product obtained when the eligible percentage applicable to eligible shares of the corporation is multiplied by the gross proceeds of the specified share issue in respect of which the certificate of eligibility was issued.

(3) A corporation that wilfully attempts to obtain or wilfully obtains a certificate of eligibility to which it is not entitled is guilty of an offence and is liable to a fine not exceeding an amount equal to

(a) if no certificate is issued, the product obtained when the eligible percentage applicable to eligible shares in an eligible corporation of the classification applied for is multiplied by the gross proceeds of the specified share issue in respect of which the certificate was sought, or

(b) if a certificate is issued, the product obtained when the eligible percentage applicable to the eligible shares of the corporation is multiplied by the gross proceeds of the specified share issue in respect of which the certificate was issued.

(4) If a corporation is guilty of an offence under this Act, an officer, director or agent who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted.

(5) For the purposes of this section, the gross proceeds of a specified share issue is an amount equal to the aggregate of the maximum subscription prices according to the prospectus or notice referred to in section 3(1)(e) for the maximum number of shares that may be issued by a corporation pursuant to the specified share issue.

Regulations

24 The Lieutenant Governor in Council may make regulations

(a) respecting the circumstances under which the Provincial Treasurer may require a person to file information returns and the information required to be included in an information return;

(b) defining any word or expression used in this Act or the regulations and not otherwise defined;

(c) prescribing any other matter required by this Act to be prescribed.

Provincial
Treasurer

25(1) The Provincial Treasurer may prescribe forms and provide for their use.

(2) The Provincial Treasurer may delegate any of his duties or powers under this Act or the regulations to any person.

Amends
RSA 1980 cA-17

26 *Section 77(2.1) of the Alberta Corporate Income Tax Act is amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding the following after clause (c):*

(d) to any person employed in the administration or enforcement of the *Alberta Stock Savings Plan Act*, solely for the purposes of administering and enforcing that Act.

Amends
RSA 1980 cA-31

27 *The Alberta Income Tax Act is amended by adding the following after section 13:*

Alberta Stock Savings Plan Tax Credit

13.1(1) In this section,

(a) “acquisition cost amount” means, for each eligible share of an eligible corporation that has been contributed to any stock savings plan,

(i) if the share is contributed to a stock savings plan of an eligible investor immediately on its being withdrawn

from another stock savings plan of the same eligible investor, an amount equal to the disposition cost amount of that share, and

(ii) in any other case, an amount equal to the product obtained when the cost amount of the eligible share is multiplied by the eligible percentage applicable to the eligible share on the date it was acquired by the eligible investor;

(b) “cost amount” means,

(i) with respect to an eligible share issued by an eligible corporation under a certificate of eligibility applied for on or before April 7, 1986, the actual subscription price, including any applicable underwriters’ fees paid by the eligible investor but not including any brokerage or custody fees or similar charges, and

(ii) with respect to an eligible share issued by an eligible corporation under a certificate of eligibility applied for after April 7, 1986,

(A) if the eligible share is issued for consideration consisting only of money, the amount of money paid by the eligible investor for the eligible share, including any applicable underwriters’ fees paid by the eligible investor for the eligible share but not including

(I) any brokerage or custody fee or similar charge, or

(II) any amount paid to acquire a warrant that evidenced the right to acquire the eligible share,

or

(B) if the eligible share is issued for consideration consisting

(I) only of property or past service, or

(II) partly of money and partly of property or past service,

an amount not exceeding the amount, if any, by which the aggregate of

(III) the amount, if any, of money paid by the eligible investor for the eligible share, as determined in accordance with paragraph (A), and

(IV) the fair market value of the property or past service in consideration for which the eligible share was issued,

exceeds the fair market value of any consideration issued or granted by the corporation other than an eligible share or a warrant that evidences the right to acquire an eligible share;

(c) “disposition cost amount” means

(i) for each eligible share of the same type and class of an eligible corporation that

(A) has a different acquisition cost amount from other eligible shares of the same type and class of the eligible corporation, and

(B) is contributed to a stock savings plan,

the amount determined in accordance with a reasonable method adopted by the eligible investor and applied consistently to all eligible shares of that type and class withdrawn from that stock savings plan, and

(ii) for each other eligible share contributed to a stock savings plan, its acquisition cost amount;

(d) “eligible investor” means an individual, other than a trust, who

(i) resided in Alberta on the last day of the taxation year, and

(ii) during the taxation year or a preceding taxation year, purchased eligible shares and contributed them to a stock savings plan;

(e) “eligible percentage” applicable to an eligible share is

(i) 10% if the eligible corporation issuing the eligible share is classified as a mature corporation on the certificate of eligibility that applies to the eligible share;

(ii) 15% if the eligible corporation issuing the eligible share is classified as an expanding corporation on the certificate of eligibility that applies to the eligible share;

(iii) 30% if the eligible corporation issuing the eligible share is classified as an emerging corporation on the certificate of eligibility that applies to the eligible share;

(f) “tax otherwise payable” means the amount that would be the tax otherwise payable by an eligible investor under this Act computed without any addition or deduction being made under section 120.1 of the federal Act and including any tax payable for the year under subsection (7).

(2) For the purposes of this section, the definitions and interpretations contained in or made under the *Alberta Stock Savings Plan Act* apply.

(3) There may be deducted from the tax otherwise payable under this Act by an eligible investor for a taxation year a stock savings plan tax credit of an amount not exceeding the aggregate of

(a) an amount equal to the least of

(i) the aggregate of all amounts, each of which is the acquisition cost amount of an eligible share, other than

(A) a share which is an eligible share pursuant to section 3(4) of the *Alberta Stock Savings Plan Act*, or

(B) an eligible share of an eligible corporation acquired by an eligible investor who was not dealing at arm's length with the eligible corporation at any time during the 12 months preceding the date he acquired the eligible share,

that is acquired by the eligible investor during the taxation year and contributed to any of his stock savings plans in the same year,

(ii) the amount, if any, by which

(A) the stock savings plan tax credit balance of the eligible investor at the end of that taxation year

exceeds

(B) the amount determined under subsection (7)(b)(i),

and

(iii) \$3000,

and

(b) the unused stock savings plan tax credit of the eligible investor at the end of the immediately preceding taxation year.

(4) The unused stock savings plan tax credit of an eligible investor at the end of any taxation year is the amount, if any, by which the aggregate of

(a) the unused stock savings plan tax credit at the end of the immediately preceding taxation year, and

(b) the amount determined under subsection (3)(a) for the taxation year

exceeds the amount deducted by the eligible investor under subsection (3) for the taxation year.

(5) The unused stock savings plan tax credit of an individual who is not resident in Alberta on the last day of a taxation year is deemed to be nil.

(6) The stock savings plan tax credit balance of an eligible investor at the end of any taxation year is the amount, if any, by which the aggregate of

(a) the stock savings plan tax credit balance of the eligible investor at the end of the immediately preceding taxation year, and

(b) the amount determined under subsection (3)(a)(i) if it is read without paragraph (A) for the taxation year

exceeds

(c) the aggregate of the disposition cost amounts of all the eligible shares previously contributed to stock savings plans of the eligible investor that are disposed of by him during the taxation year.

(7) If in any taxation year an eligible investor disposes of any eligible shares from a stock savings plan, he shall pay to the Provincial Treasurer an amount of tax equal to the lesser of

(a) the amount determined under subsection (6)(c) for the taxation year, and

(b) the amount, if any, by which

(i) the amount, if any, by which

(A) the aggregate of the amounts determined under subsection (3)(a) for the immediately preceding 2 taxation years

exceeds

(B) the amount of any tax required by this subsection to be paid by the eligible investor in the immediately preceding taxation year

exceeds

(ii) the stock savings plan tax credit balance at the end of the taxation year.

(8) For the purposes of this section, if at any time, in this subsection referred to as the “particular time”, an eligible investor

(a) disposes of an eligible share, in this subsection referred to as the “old share”, that had previously been contributed to his stock savings plan at any time before the particular time

(i) as a consequence of his death, or

(ii) pursuant to a transaction described in section 51, 85.1, 86 or 87 of the federal Act in respect of an eligible share, and

(A) the eligible investor receives no consideration for the old share other than a share or shares of the same or another corporation, in this subsection referred to as the “new share”, and

(B) the requirements of section 3(1)(g) of the *Alberta Stock Savings Plan Act* are met with respect to the new share,

or

(b) is deemed by section 50 of the federal Act to have disposed of an eligible share that had previously been contributed to his stock savings plan at any time prior to the particular time

the following rules apply:

(c) the eligible investor is deemed not to have disposed of the old share from the stock savings plan at the particular time;

(d) in the case of a disposition to which clause (a)(ii) applies,

(i) each new share is deemed to be an eligible share that was included in the stock savings plan of the eligible investor at the same time as the old share, and

(ii) the disposition cost amount of each new share is an amount equal to the quotient obtained when the disposition cost amount of the old share determined immediately before the particular time is divided by the number of new shares issued for each old share.

(9) If an eligible share is withdrawn from one stock savings plan of an eligible individual and included in another stock savings plan of the same individual, the qualified dealer who holds the first stock savings plan shall remit the share certificate evidencing the share directly to the qualified dealer who holds the 2nd stock savings plan.

(10) If an eligible share is withdrawn from one stock savings plan of an individual and included in another stock savings plan of the same individual in the taxation year in which the share is acquired by the individual, the acquisition cost amount of that share for that taxation year for the purposes of subsections (3)(a)(i) and (6)(b) is the acquisition cost amount determined when subsection (1)(a) is read without subclause (i).

(11) An eligible investor is entitled to deduct a stock savings plan tax credit in respect of the taxation year only if he files the relevant statements of investment and a prescribed stock savings plan tax credit form

(a) with his return for that taxation year, or

(b) on a day after the return is filed, but not later than 90 days from the date of mailing of the notice of assessment, reassessment, determination or redetermination, as the case may be.

(12) If an eligible investor who

(a) deducted a stock savings plan tax credit in either of the 2 immediately preceding taxation years, or

(b) has an unused stock savings plan tax credit at the end of the immediately preceding taxation year

does not file the relevant statements of investment and a prescribed stock savings plan tax credit form for a taxation year, he is deemed to have disposed of all the eligible shares in his stock savings plans in that taxation year.

(13) If as a result of an assessment or reassessment of his tax payable for the taxation year an eligible investor has not deducted the maximum stock savings plan tax credit to which he is entitled, he may file a revised prescribed stock savings plan tax credit form for that taxation year within 90 days from the date of mailing of the notice of assessment or reassessment, but not afterwards.

(14) An eligible investor becomes entitled to deduct the amount of the stock savings plan tax credit on the date the prescribed stock savings plan tax credit form is filed under subsection (11) or (13).

(15) Before March 1 in each year, a qualified dealer who held eligible shares under a stock savings plan for an individual during the preceding year shall send to the Minister of National Revenue a copy of the statement of investment provided to the individual pursuant to section 2(3) of the *Alberta Stock Savings Plan Act*.

(16) This section applies to 1986 and subsequent taxation years.

Coming
into force

28 *This Act is deemed to have come into force on February 1, 1986.*