

1986 BILL 14

Fourth Session, 20th Legislature, 35 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 14

**ALBERTA CORPORATE INCOME TAX
AMENDMENT ACT, 1986**

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 14

1986

ALBERTA CORPORATE INCOME TAX AMENDMENT ACT, 1986

(Assented to _____, 1986)

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

1 *The Alberta Corporate Income Tax Act is amended by this Act.*

2(1) *Section 26 is amended*

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

(f) “restricted corporation” means a corporation described in subsection (1.12);

(g) “restricted partnership” means a partnership described in subsection (1.13);

(h) “restricted resource property” means

(i) any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta with a finished drilling date on or before August 24, 1982 where the right or interest or part thereof was owned by an above-limit corporation or an above-limit partnership on August 24, 1982, and includes a right or interest or part thereof acquired by an above-limit corporation or an above-limit partnership after August 24, 1982 pursuant to the terms of a contract, other than an option, entered into and enforceable on or before that date, but does not include any right or interest or part thereof that is disposed of by an above-limit corporation or by an above-limit partnership after August 24, 1982 pursuant to the terms of a contract, other than an option, entered into and enforceable on or before that date,

(ii) if subclause (i) does not apply, any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta that was disposed of after its finished drilling date and after April 7, 1986 by a restricted corporation, or

(iii) if subclause (i) does not apply, any right or interest of any nature whatsoever or howsoever described or part

Explanatory Notes

1 This Bill will amend chapter A-17 of the Revised Statutes of Alberta 1980.

2 Section 26 presently reads in part:

26(1) *In this Division,*

(f) “restricted resource property” means any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta with a finished drilling date on or before August 24, 1982 where the right or interest or part thereof was owned by an above-limit corporation or an above-limit partnership on August 24, 1982, and includes a right or interest or part thereof acquired by an above-limit corporation or an above-limit partnership after August 24, 1982 pursuant to the terms of a contract, other than an option, entered into and enforceable on or before that date, but does not include any right or interest or part thereof that is disposed of by an above-limit corporation or by an above-limit partnership after August 24, 1982 pursuant to the terms of a contract, other than an option, entered into and enforceable on or before that date.

(1.1) A corporation, other than an exempt corporation, shall not include in computing its Alberta crown royalty for a taxation year any of the amounts described in subsection (1)(c)(i) to (iii) where those amounts are or are in respect of royalties receivable by or payable to the Crown in right of Alberta after August 31, 1982 in respect of a restricted resource property.

(1.2) For the purposes of subsection (1)(f), a right or interest or part thereof shall be deemed not to be owned by a partnership unless there was in existence on August 24, 1982 a written agreement of partnership together with any other evidence that, in the opinion of the Provincial Treasurer, is sufficient to establish that the right or interest or part thereof was intended by each of the members of the partnership to be owned by the partnership and not by the members.

(1.5) Notwithstanding subsections (1)(e), (1.7) and (1.8), when at any time after August 24, 1982, control of an exempt corporation is acquired by a person or group of persons that did not control the corporation at the time when it first became an exempt corporation, the Provincial Treasurer may deem that corporation not to be an exempt corporation for the taxation year in which control was acquired and all subsequent taxation years if, in his opinion, the result of the acquisition of control of the particular

thereof in any production from a petroleum or natural gas well in Alberta that was disposed of after its finished drilling date and after April 7, 1986 by a restricted partnership.

(b) by repealing subsection (1.1) and substituting the following:

(1.1) A corporation shall not include in computing its Alberta crown royalty for a taxation year

(a) any of the amounts described in subsection (1)(c)(i) to (iii) where those amounts are or are in respect of royalties receivable by or payable to the Crown in right of Alberta,

(i) after August 31, 1982 in respect of a restricted resource property described in subsection (1)(h)(i), unless the corporation is an exempt corporation, or

(ii) after March 31, 1986 in respect of a restricted resource property described in subsection (1)(h)(ii),

or

(b) the restricted percentage of any of the amounts described in subsection (1)(c)(i) to (iii) where those amounts are or are in respect of royalties receivable by or payable to the Crown in right of Alberta after March 31, 1986 in respect of a restricted resource property described in subsection (1)(h)(iii).

(1.11) If the restricted resource property is disposed of by only 1 restricted partnership, the restricted percentage of the amounts referred to in subsection (1.1)(b) is the greater of

(a) the aggregate of all percentages, each of which represents the participation in the profits of the restricted partnership of a restricted corporation that was a partner in the restricted partnership during the last fiscal period of the restricted partnership that ends prior to the date of the disposition of the restricted resource property by the restricted partnership, and

(b) the aggregate of all percentages, each of which represents the participation in the profits of the restricted partnership of a restricted corporation that was a partner in the restricted partnership

(i) during the fiscal period of the restricted partnership in which the date of the disposition of the restricted resource property by the restricted partnership occurred, and

(ii) on or before the date of the disposition of the restricted resource property.

(1.111) If the restricted resource property is disposed of by more than 1 restricted partnership, the restricted percentage of the amounts referred to in subsection (1.1)(b) is the largest of the restricted percentages determined under subsection (1.11) for each of the restricted partnerships.

exempt corporation is to increase the amount of royalty tax credit that would otherwise be determined under this Act.

(1.12) A corporation is a restricted corporation at any particular time if, during its last taxation year ending before that time,

(a) it has Alberta crown royalty in excess of \$4 000 000, or

(b) it is associated with 1 or more corporations and the sum of

(i) the Alberta crown royalty of the corporation for that taxation year, and

(ii) the aggregate of all amounts, each of which is the Alberta crown royalty of an associated corporation for its taxation year that ends in that taxation year of the corporation

is in excess of \$4 000 000.

(1.13) A partnership is a restricted partnership at any particular time if, at any time during the period commencing 365 days prior to the particular time, 1 or more restricted corporations are partners in the partnership.

(1.14) For the purposes of subsection (1.12), the Alberta crown royalty of a corporation for a taxation year is an amount equal to the product of

(a) the Alberta crown royalty of the corporation for the taxation year as otherwise determined, and

(b) the ratio of 365 to the number of days in the taxation year.

(1.141) For the purposes of subsection (1.12), if the last taxation year of a corporation that is not a new corporation referred to in subsection (1.145) ending before the particular time, referred to in this subsection as the “actual taxation year”,

(a) is the corporation’s first taxation year, and

(b) consists of less than 365 days,

the last taxation year of the corporation ending before the particular time is deemed to commence 365 days prior to the first day of the taxation year immediately following the actual taxation year and to end on the last day of the actual taxation year.

(1.142) For the purposes of subsection (1.12)(b), if the last taxation year of a corporation that is not a new corporation referred to in subsection (1.141) or (1.145) ending before the particular time, referred to in this subsection as the “actual taxation year”, consists of less than 365 days, the last taxation year of the corporation ending before the particular time is deemed to commence 365 days prior to the first day of the taxation year immediately following the actual taxation year and to end on the last day of the actual taxation year.

(1.143) For the purposes of subsection (1.12)(b), if a corporation is a new corporation, other than a corporation referred

to in subsection (1.144), and does not have a taxation year ending before the particular time, it is deemed to have a taxation year that commences 365 days prior to the particular time and ends on the date immediately prior to the particular time.

(1.144) For the purposes of subsection (1.12), if a corporation is a new corporation formed by the amalgamation of 2 or more predecessor corporations and the new corporation does not have a taxation year ending before the particular time, the new corporation is deemed

- (a) to have a taxation year that commences 365 days prior to the particular time and ends on the date immediately prior to the particular time,

- (b) to have Alberta crown royalty in that taxation year in an amount equal to the aggregate of

- (i) the Alberta crown royalty of each predecessor corporation for the period described in clause (a), and

- (ii) the Alberta crown royalty of the new corporation for the period described in clause (a),

and

- (c) to be associated with a corporation that is associated with a predecessor corporation of the new corporation during the 365-day period described in clause (a).

(1.145) For the purposes of subsection (1.12), if a corporation is a new corporation formed by the amalgamation of 2 or more predecessor corporations and the last taxation year of the new corporation ending before the particular time, referred to in this subsection as the “actual taxation year”, is the corporation’s first taxation year and consists of less than 365 days,

- (a) the last taxation year of the new corporation ending before the particular time is deemed to commence 365 days prior to the first day of the taxation year immediately following the actual taxation year and to end on the last day of the actual taxation year,

- (b) the new corporation is deemed to have Alberta crown royalty in that last taxation year in an amount equal to the aggregate of

- (i) the Alberta crown royalty of each predecessor corporation for the 365-day period described in clause (a), and

- (ii) the Alberta crown royalty of the new corporation for the 365-day period described in clause (a),

and

- (c) the new corporation is deemed to be associated with a corporation that is associated with a predecessor corporation of the new corporation during the 365-day period described in clause (a).

(1.15) Notwithstanding subsection (3), if the Provincial Treasurer is satisfied that

(a) the separate existence of 2 or more corporations at any time is not solely for the purpose of carrying out the business of those corporations in the most effective manner, and

(b) one of the main reasons for the separate existence of the corporations is to avoid 1 or more of those corporations' remaining or becoming a restricted corporation,

the Provincial Treasurer may direct that all of the corporations are deemed to be associated with each other during a taxation year for the purposes of subsection (1.12).

(c) *in subsection (1.2) by striking out "subsection (1)(f)" and substituting "subsection (1)(h)(i)";*

(d) *by repealing subsection (1.5) and substituting the following:*

(1.5) Notwithstanding subsections (1)(e), (1.7), (1.8) and (1.9), if at any time control of an exempt corporation is acquired by a person, that corporation is deemed not to be an exempt corporation for the taxation year in which control is acquired and for all subsequent taxation years unless the Provincial Treasurer is satisfied that the result of the acquisition of control of the corporation by that person is not to increase the amount of royalty tax credit that would otherwise be determined under this Act.

(1.51) If at any time after April 7, 1986 control of a restricted corporation is acquired by a person and on the date of the acquisition of control the restricted corporation owns any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta, for the purposes of this Division, the restricted corporation is deemed to have disposed of and reacquired that right, interest or part immediately prior to the date of the acquisition of control unless the Provincial Treasurer is satisfied that the result of the acquisition of control of the restricted corporation by that person is not to increase the amount of royalty tax credit that would otherwise be determined under this Act.

(1.52) If at any time after April 7, 1986 control of a corporation is acquired by a person and the corporation is associated with a restricted corporation immediately prior to the date of the acquisition of control, the corporation is deemed to have been a restricted corporation immediately prior to the date of the acquisition of control.

(e) *by adding the following after subsection (1.8):*

(1.9) Notwithstanding subsection (1)(e), if at any time after March 31, 1986 a new corporation is formed by the amalgamation of

(a) a corporation and 1 or more of its subsidiary wholly-owned corporations, or

(b) 2 or more corporations, each of which is a subsidiary wholly-owned corporation of the same corporation,

and 1 of the corporations referred to in clause (a) or (b) is an exempt corporation immediately prior to the date of the amalgamation, the new corporation is deemed to be an exempt corporation as of the first day of its first taxation year.

(1.91) If at any time after April 7, 1986 a restricted corporation

(a) amalgamates with

(i) 1 or more of its subsidiary wholly-owned corporations,

(ii) 1 or more corporations, each of which is a subsidiary wholly-owned corporation of the same corporation of which the restricted corporation is a subsidiary wholly-owned corporation, or

(iii) a corporation of which the restricted corporation is a subsidiary wholly-owned corporation,

or

(b) is wound up in circumstances to which subsection 88(1) of the federal Act applies,

and any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta is disposed of to the new corporation as a result of the amalgamation or is disposed of as a result of the winding-up, for the purposes of subsection (1)(h)(ii) that disposition is deemed not to have occurred.

(1.92) If at any time after April 7, 1986 a restricted corporation disposes of any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta to a corporation that is associated with it immediately before the date of the disposition,

(a) for the purposes of subsection (1)(h)(ii) that disposition is deemed not to have occurred, and

(b) for the purposes of subsections (1.12) and (1.51) the corporation acquiring the right, interest or part is deemed to be associated with the restricted corporation during the last taxation year of the restricted corporation that ends before the date of the disposition.

(2) *Subsection (1) does not apply to*

(a) *the disposition of property by a restricted corporation or a restricted partnership, or*

(b) *the acquisition of the control of a restricted corporation or a corporation associated with a restricted corporation*

if the property is disposed of or the control is acquired pursuant to the terms of a contract, other than an option, entered into and enforceable on or before April 7, 1986.

3 *Section 26.1 is amended*

(a) *by repealing subsections (2) and (3) and substituting the following:*

(2) The specified percentage of a corporation's Alberta crown royalty for a taxation year is,

- (a) for taxation years beginning after August 31, 1981 and ending before January 1, 1984, 75%,
- (b) for taxation years beginning after December 31, 1983 and ending before April 1, 1986, 50%, and
- (c) for taxation years beginning after December 31, 1986, 75%.

(3) Subject to subsection (4), a corporation's maximum allowable credit for a taxation year is,

- (a) for taxation years beginning after August 31, 1981 and ending before January 1, 1984, 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,
- (b) for taxation years beginning after December 31, 1983 and ending before April 1, 1986, 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,

and

- (c) for taxation years beginning after December 31, 1986, the lesser of
 - (i) \$3 000 000, and
 - (ii) that proportion of \$3 000 000 that the number of days in the taxation year bears to 365.

(b) *by repealing subsection (7) and substituting the following:*

(7) The aggregate of the maximum allowable credits allocated among corporations that are associated with each other shall not exceed,

- (a) for taxation years beginning after August 31, 1981 and ending before January 1, 1984, the lesser of
 - (i) \$4 000 000, and
 - (ii) that proportion of \$4 000 000 that the number of days in the taxation year of the associated corporation with the longest year bears to 365,
- (b) for taxation years beginning after December 31, 1983 and ending before April 1, 1986, the lesser of
 - (i) \$2 000 000, and

3 Section 26.1 presently reads in part:

(2) The specified percentage of a corporation's Alberta crown royalty for a taxation year is,

(a) for taxation years beginning after August 31, 1981 and ending before January 1, 1984, 75%, or

(b) for taxation years beginning after December 31, 1983, 50%.

(3) Subject to subsection (4), a corporation's maximum allowable credit for a taxation year is,

(a) for taxation years beginning after August 31, 1981 and ending before January 1, 1984, 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 taxation years beginning after December 31, 1983, the lesser of

(i) \$2 000 000, and

(ii) that proportion of \$2 000 000 that the number of days in the year bears to 365.

(7) The aggregate of the maximum allowable credits allocated amongst corporations that are associated with each other shall not exceed,

(a) for taxation years beginning after August 31, 1981 and ending before January 1, 1984, the lesser of

(i) \$4 000 000, and

(ii) that proportion of \$4 000 000 that the number of days in the taxation year of the associated corporation with the longest year bears to 365, and

(b) for taxation years beginning after December 31, 1983, the lesser of

(i) \$2 000 000, and

(ii) that proportion of \$2 000 000 that the number of days in the taxation year of the associated corporation with the longest year bears to 365.

(13) Notwithstanding subsection (2), if a corporation is a member of a partnership whose fiscal year begins before September 1, 1981 or ends after December 31, 1983 and the corporation is deemed to have Alberta crown royalty under subsection (12), the specified percentage became receivable or payable

(a) before September 1, 1981 shall be for the part of that deemed Alberta crown royalty that is in respect of royalties that determined as if the reference in subsection (2)(a) to "75%" were to "25%", and

(b) before January 1, 1984 shall be determined as if the reference in subsection (2)(b) to "50%" were to "75%".

- (ii) that proportion of \$2 000 000 that the number of days in the taxation year of the associated corporation with the longest year bears to 365, and
- (c) for taxation years beginning after December 31, 1986, the lesser of
 - (i) \$3 000 000, and
 - (ii) that proportion of \$3 000 000 that the number of days in the taxation year of the associated corporation with the longest year bears to 365.
- (c) *by repealing subsection (13) and substituting the following:*
 - (13) Notwithstanding subsection (2), if a corporation is a member of a partnership whose fiscal period begins before September 1, 1981 or ends before January 1, 1985 and the corporation is deemed to have Alberta crown royalty under subsection (12) or (12.1), the specified percentage for the part of that deemed Alberta crown royalty that is in respect of royalties that became receivable or payable
 - (a) before September 1, 1981 shall be determined as if the reference in subsection (2)(a) to “75%” were to “25%”, and
 - (b) before January 1, 1984 shall be determined as if the reference in subsection (2)(b) to “50%” were to “75%”.
 - (13.1) Notwithstanding subsection (2), if a corporation is a member of a partnership whose fiscal period ends after December 31, 1986 and the corporation is deemed to have Alberta crown royalty under subsection (12) or (12.1), the specified percentage for the part of that deemed Alberta crown royalty that is in respect of royalties that became receivable or payable
 - (a) before January 1, 1987 and after March 31, 1986 shall be determined as if the reference in subsection (2)(c) to “75%” were to “95%”, and
 - (b) before April 1, 1986 shall be determined as if the reference in subsection (2)(c) to “75%” were to “50%”.

4 The following is added after section 26.3:

- 26.31(1)** Notwithstanding section 26.1(1) to (8) and (13.1),
 - (a) if a corporation has Alberta crown royalty in a taxation year part or all of which is in the period commencing April 1, 1986 and ending December 31, 1986, or
 - (b) if a corporation has Alberta crown royalty in a taxation year when it is associated with another corporation in a taxation year of the other corporation part or all of which is in the period commencing April 1, 1986 and ending December 31, 1986,

it is entitled to a royalty tax credit for the year in an amount equal to the aggregate of

4 Transitional provisions.

(c) the lesser of

- (i) 50% of the corporation's Alberta crown royalty for the year, and
- (ii) the corporation's maximum allowable credit for the year determined under subsection (2),

and

(d) the lesser of

(i) the aggregate of

(A) 45% of the corporation's Alberta crown royalty for the period in the year after March 31, 1986 and before January 1, 1987, and

(B) 25% of the corporation's Alberta crown royalty for the period in the year after December 31, 1986,

and

(ii) the corporation's additional maximum allowable credit for the year determined under subsection (3).

(2) A corporation's maximum allowable credit for a taxation year is the lesser of

(a) \$2 000 000, and

(b) that proportion of \$2 000 000 that the number of days in the taxation year bears to 365,

unless in the year the corporation is associated with another corporation, in which case the corporation's maximum allowable credit for the year is the amount allocated to the corporation under subsection (4) or (6).

(3) A corporation's additional 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 in the taxation year after March 31, 1986 bears to 365,

unless in the year the corporation is associated with another corporation, in which case the corporation's additional maximum allowable credit for the year is the amount allocated to the corporation under subsection (5) or (6).

(4) The Provincial Treasurer shall allocate to each corporation in a group of corporations that are associated with each other a maximum allowable credit equal to the proportion of the amount determined under subsection (7) that

(a) the lesser of

- (i) that corporation's Alberta crown royalty, and
- (ii) \$4 000 000

is of

(b) the aggregate of the amounts determined under clause (a) for each corporation in the group of associated corporations.

(5) The Provincial Treasurer shall allocate to each corporation in a group of corporations that are associated with each other an additional maximum allowable credit equal to that proportion of the amount determined under subsection (8) that

(a) the lesser of

(i) that corporation's Alberta crown royalty for the period in the year after March 31, 1986, and

(ii) \$4 000 000

is of

(b) the aggregate of the amounts determined under clause (a) for each corporation in the group of associated corporations.

(6) Notwithstanding subsections (4) and (5), if 2 or more corporations that are associated with each other file an agreement in the prescribed form with the Provincial Treasurer and that agreement

(a) is among all of the associated corporations, and

(b) allocates the relevant amounts under subsections (7) and (8) to any or all of the associated corporations,

the Provincial Treasurer shall allocate the maximum allowable credit and the additional maximum allowable credit among the associated corporations in accordance with the agreement.

(7) The aggregate of the maximum allowable credits allocated among corporations that are associated with each other shall not exceed the lesser of

(a) \$2 000 000, and

(b) the proportion of \$2 000 000 that the number of days in the taxation year of the associated corporation with the longest year bears to 365.

(8) The aggregate of the additional maximum allowable credits allocated among corporations that are associated with each other shall not exceed the lesser of

(a) \$1 000 000, and

(b) that proportion of \$1 000 000 that the number of days after March 31, 1986 in the taxation year of the associated corporation whose taxation year contains the greatest number of days after March 31, 1986 bears to 365.

5 The Alberta Income Tax Act is amended by repealing section 12.1(1.1) and substituting the following:

(1.1) An individual shall not include in computing his Alberta crown royalty for a taxation year

(a) any of the amounts described in subsection (1)(a)(i) to (iii) where those amounts are or are in respect of royalties receivable by or payable to the Crown in right of Alberta,

(i) after August 31, 1982 in respect of a restricted resource property described in section 26(1)(h)(i) of the *Alberta Corporate Income Tax Act*, or

5 Amends RSA 1980 cA-31.

(ii) after March 31, 1986 in respect of a restricted resource property described in section 26(1)(h)(ii) of the *Alberta Corporate Income Tax Act*,

or

(b) the restricted percentage determined under section 26(1.11) or (1.111) of the *Alberta Corporate Income Tax Act*, as the case may be, of any of the amounts described in subsection (1)(a)(i) to (iii) where those amounts are or are in respect of royalties receivable by or payable to the Crown in right of Alberta after March 31, 1986 in respect of a restricted resource property described in section 26(1)(h)(iii) of the *Alberta Corporate Income Tax Act*.

6 This Act comes into force on April 1, 1986.

