

1986 BILL 46

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First Session, 21st Legislature, 35 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 46**

**ALBERTA INCOME TAX AMENDMENT ACT, 1986**

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THE PROVINCIAL TREASURER

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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## BILL 46

1986

### ALBERTA 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 Income Tax Act is amended by this Act.*

2(1) *Section 3 is amended*

(a) *by repealing subsection (6)(a) and substituting the following:*

(a) the amount, if any, by which any non-business-income tax paid by him for the year to the government of that country exceeds the sum of

(i) the amount claimed for that year under subsection 126(1) of the federal Act as a deduction under that Act,

(ii) the amount claimed for that year under subsection 122.3(1) of the federal Act as a deduction under that Act, and

(iii) an amount equal to the product of the amount in subclause (ii) and the percentage used in computing the tax payable under this Act for that year,

and

(b) *in subsection (6)(b)(i) by adding “or in respect of which an amount was deducted by him under section 110.6 of the federal Act” after “subparagraph 110(1)(f)(i) of the federal Act”;*

(c) *in subsection (6)(b)(i) by striking out “and” at the end of paragraph (C), by adding “and” at the end of paragraph (D) and by adding the following after paragraph (D):*

(E) the taxpayer's income from employment in that country was not from a source in that country to the extent of the lesser of the amounts determined in respect of his income under paragraphs 122.3(1)(c) and (d) of the federal Act for the year,

(d) *by repealing subsection (6)(b)(ii) and substituting the following:*

(ii) the amount, if any, by which

(A) if section 114 of the federal Act is not applicable to the taxpayer in respect of the year, the aggregate of his

## Explanatory Notes

1 This Bill will amend chapter A-31 of the Revised Statutes of Alberta 1980.

2 Section 3(6) and (6.1) presently read:

*(6) If an individual resided in Alberta on the last day of a taxation year and had income for the year that included income earned in a country other than Canada in respect of which any non-business-income tax was paid by him to the government of a country other than Canada, he may deduct from the tax payable by him under this Act for that taxation year an amount equal to the lesser of*

*(a) the amount, if any, by which any non-business-income tax paid by him for the year to the government of that other country exceeds the amount claimed under the federal Act as a deduction for that taxation year by virtue of subsection 126(1) of that Act, and*

*(b) that proportion of the tax otherwise payable under this Act for that taxation year that*

*(i) the aggregate of the taxpayer's incomes from sources in that country, excluding any portion thereof that was deductible by him for the year under subparagraph 110(1)(f)(i) of the federal Act*

*(A) for that year, if section 114 of the federal Act is not applicable, or*

*(B) if section 114 of the federal Act is applicable, for the period or periods in the year referred to in paragraph (a) of that section*

*on the assumption that*

*(C) no businesses were carried on by him in that country, and*

*(D) no amount was deducted under subsection 91(5) of the federal Act in computing his income for the year,*

*is of*

*(ii) the taxpayer's income earned in Alberta*

*(A) in the year, if section 114 of the federal Act is not applicable, or*

*(B) if section 114 of the federal Act is applicable, in the period or periods of the year referred to in paragraph (a) of that section,*

income for the year and the amounts, if any, included under subsection 110.4(2) of the federal Act in computing his taxable income under that Act for the year, or

(B) if section 114 of the federal Act is applicable to the taxpayer in respect of the year, his income under that Act for the period or periods in the year referred to in paragraph (a) of that section,

exceeds

(C) the aggregate of all amounts each of which is an amount

(I) deducted by the taxpayer under paragraph 111(1)(b) of the federal Act, or

(II) deductible by the taxpayer under paragraph 110(1)(d) or (f) or section 110.1 of the federal Act

for the year or in respect of the period or periods referred to in paragraph (B), as the case may be.

*(e) in subsection (6)(b)(ii) as enacted by section 2(1)(d) of this Act,*

*(i) in paragraph (C)(I) by adding “or section 110.6” after “paragraph 111(1)(b)”;*

*(ii) in paragraph (C)(II) by striking out “paragraph 110(1)(d) or (f)” and substituting “paragraph 110(1)(d), (d.1), (d.2), (d.3), (f) or (j)”;*

*(f) in subsection (6.1) by striking out “section 120.1” and substituting “sections 120.1, 121 and 122.3”.*

*(2) Subsection (1)(a) to (c), (e) and (f) apply to 1985 and subsequent taxation years.*

*(3) Subsection (1)(d) applies to 1984 and subsequent taxation years.*

*3(1) Section 10(8) is amended by striking out “subsections (3) and (4)” and substituting “subsections (3), (4) and (4.1)”.*

*(2) Subsection (1) applies to 1983 and subsequent taxation years.*

*minus any amounts deductible by him under paragraph 110(1)(f), section 110.1, paragraph 111(1)(b) or section 112 of the federal Act for the year or that period or periods, as the case may be.*

*(6.1) For the purposes of subsection (6), "tax payable" and "tax otherwise payable" mean the amount that would, but for section 120.1 of the federal Act, be the tax otherwise payable under this Act.*

**3** Section 10(8) presently reads:

*(8) In subsections (3) and (4), the rent paid must be in consideration of the individual's normal residence in one or more eligible renter residences and may include*

*(a) parking, utilities and any other privileges or services incidental to the lease, tenancy or other right of occupancy and not separately charged for,*

*(b) the value of services performed by the individual in addition to, or in lieu of, a money payment,*

*(c) money paid directly or indirectly by an individual,*

*(d) when 2 or more individuals share a normal residence, the individual's direct or indirect contributions to the rent paid, and*

*(e) money paid to a fraternal society, co-operative association or other like body by an individual, who was then a member of that society, association or other body, in consideration of his residing in a residence operated by that society, association or other body, but does not include membership dues in that society, association or other body.*

*4(1) Section 11 is amended*

*(a) by adding the following after subsection (1.1):*

(1.2) If an individual disposes of property to a corporation in a transaction referred to in section 20(5) of the *Alberta Corporate Income Tax Act*, the individual shall not use any of the attributed Canadian royalty income included by the corporation in the amount referred to in section 20(5)(a) of that Act in determining his royalty tax rebate for a taxation year subsequent to the taxation year in which he disposed of the property to the corporation.

*(b) in subsection (6) by striking out “his attributed Canadian royalty income for the year” and substituting “the aggregate of his attributed Canadian royalty income carried forward from the immediately preceding taxation year and his attributed Canadian royalty income for the year”;*

*(c) in subsection (7)(a)(i) by striking out “or subsection (3)(a)” and substituting “, (3)(a) or (3.1)(a)”.*

*(2) Subsection (1)(a) applies with respect to dispositions of property by an individual to a corporation after April 19, 1983.*

*(3) Subsection (1)(c) applies to 1984 and subsequent taxation years.*

**4** Section 11(6) and (7) presently read:

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

*(7) When there is tax otherwise payable under this Act by a taxpayer for a taxation year, the attributed Canadian royalty income carried forward to the immediately succeeding taxation year is*

*(a) in the case of an individual, the quotient obtained when*

*(i) the amount, if any, by which the product determined for him for the year under subsection (2)(a) or subsection (3)(a) exceeds his tax otherwise payable under this Act for the year,*

*is divided by*

*(ii) in the case of the 1974 taxation year, the product of*

*(A) 36% of his federal basic tax rate, and*

*(B) the quotient obtained when his income earned in Alberta in the 1974 taxation year (as determined in accordance with Part XXVI of the federal regulations) is divided by his income for that taxation year,*

*(iii) in the case of the 1975 and 1976 taxation years, the product of*

*(A) 26% of his basic federal tax rate, and*

*(B) the quotient obtained when his income earned in Alberta in the taxation year (as determined in accordance with Part XXVI of the federal regulations) is divided by his income for that taxation year,*

*(iv) in the case of the 1977 taxation year, the product of*

*(A) 38.5% of his basic federal tax rate, and*

*(B) the quotient obtained when his income earned in Alberta in the taxation year (as determined in accordance with Part XXVI of the federal regulations) is divided by his income for that taxation year,*

*(v) in the case of the 1978, 1979, 1980, 1981, 1982 and 1983 taxation years, the product of*

*(A) 38.5% of his basic federal tax rate, and*

*(B) the quotient obtained when his resource income earned in Alberta in the taxation year (as determined in accordance with Part XXVI of the federal regulations) is divided by his resource income for that taxation year;*

*or*

*(vi) in the case of the 1984 and subsequent taxation years, the product of*

*(A) 43.5% of his basic federal tax rate, and*

*(B) the quotient obtained when his resource income earned in Alberta in the taxation year (as determined in accordance with Part XXVI of the federal regulations) is divided by his resource income for that taxation year;*

*(b) in the case of a corporation, the quotient obtained when*

*(i) the amount, if any, by which the amount determined for it for the year under subsection (4)(a) exceeds its tax otherwise payable under this Act for the year,*

5(1) *Section 12.1 is amended*

(a) *by repealing subsection (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

(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*.

(b) *in subsection (3) by striking out “or” at the end of clause (a) and by repealing clause (b) and substituting the following:*

(b) for the 1984 and 1985 taxation years, 50%, and

(c) for the 1987 and subsequent taxation years, 75%.

(c) *in subsection (4)*

(i) *in clause (b) by striking out “and subsequent” and substituting “and 1985”;*

(ii) *by striking out “and” at the end of clause (a), by adding “and” at the end of clause (b) and by adding the following after clause (b):*

(c) for the 1987 and subsequent taxation years, 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.

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

(4.1) Notwithstanding subsection (2), an individual who has Alberta crown royalty in the 1986 taxation year is entitled to a royalty tax credit for that taxation year in an amount equal to the lesser of



is divided by

(ii) 11% of the quotient obtained when its taxable income earned in Alberta for the year (as determined in accordance with Part IV of the federal regulations) is divided by its taxable income for the year.

**5** Section 12.1(1.1), (3), (4), (6), (7) and (12) presently read:

(1.1) An individual shall not include in computing his Alberta crown royalty for a taxation year any of the amounts described in subsection (1)(a)(i) to (iii) where these amounts are or are in respect of royalties receivable or payable to the Crown in right of Alberta after August 31, 1982 in respect of a restricted resource property as defined in Part 6, Division 1 of the Alberta Corporate Income Tax Act.

(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.

(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.

(12) An individual is entitled to a royalty tax credit in respect of the taxation year only if he files an application for the credit in the prescribed form

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

(a) the aggregate of 50% of the individual's Alberta crown royalty for the year and 45% of that portion of the individual's Alberta crown royalty that arose in the year from royalties receivable or payable after March 31, 1986, and

(b) the aggregate of

(i) the lesser of

(A) \$2 000 000, and

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

(ii) the lesser of

(A) \$1 000 000, and

(B) that proportion of \$1 000 000 that the number of days in the year after March 31, 1986 bears to 365.

*(e) in subsection (6) by striking out "and" at the end of clause (a), by adding "and" at the end of clause (b) and by adding the following after clause (b):*

(c) in a 1987 taxation year, if the fiscal period of the business or partnership commenced in 1986, 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

(i) before April 1, 1986 shall be 50%, and

(ii) after March 31, 1986 and before January 1, 1987 shall be 95%.

*(f) in subsection (7) by striking out "and" at the end of clause (a) and by repealing clause (b) and substituting the following:*

(b) for the 1984 and 1985 taxation years, \$2 000 000, and

(c) for the 1987 and subsequent taxation years, \$3 000 000

*(g) by adding the following after subsection (7):*

(7.1) Notwithstanding subsection (7), if an individual has Alberta crown royalty in the 1986 taxation year with respect to a business or partnership, the amount determined under subsection (4.1)(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 the aggregate of

(a) the lesser of

(i) \$2 000 000, and

(ii) that proportion of \$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,

and

(b) the lesser of

(i) \$1 000 000, and

*(b) on a day after the return has been filed, but no later than 90 days from the date of mailing of the notice of assessment, reassessment, determination or redetermination, as the case may be*

*but in no case shall an individual be entitled to a royalty tax credit unless he files an application for the credit within 1 year from the end of that taxation year.*

(ii) that proportion of \$1 000 000 that the number of days in the fiscal period of the business or partnership, as the case may be, after March 31, 1986 bears to 365.

(h) in subsection (12) by striking out “but in no case shall an individual be entitled to a royalty tax credit unless he files an application for the credit within 1 year from the end of that taxation year”.

(2) Subsection (1)(h) applies to 1984 and subsequent taxation years.

6 Section 12.2(b) is amended by striking out “excluded” and substituting “deducted”.

7(1) Section 15 is amended

(a) in subsection (1) by striking out “for each taxation year for which a tax is payable in the case of an individual” and substituting “in the case of an individual, for each taxation year for which tax is payable or would be payable if Part I of the federal Act were read without reference to section 127.3, or in which the individual has a taxable capital gain or has disposed of a capital property,”;

(b) in subsection (1)(d) by striking out “curator, tutor,”;

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

(4) If a taxpayer who is a partner or a proprietor of a business died after the end of a fiscal period but before the end of the calendar year in which the fiscal period ended, his income as a partner or proprietor for the period commencing immediately after the end of the fiscal period and ending at the time of death shall be included in computing the taxpayer's income for the taxation year in which he died unless his legal representative has elected otherwise, in which case the legal representative shall file a separate return for the period under this Act and pay the tax for the period under this Act as if

(a) the taxpayer were another person,

(b) the period were a taxation year,

(c) that other person's only income for the period were his income as a partner or proprietor for that period, and

(d) subject to section 114.2 of the federal Act, that other person were entitled to the deductions to which the taxpayer was entitled under sections 109 to 110.2 of the federal Act for the period in computing his taxable income for the period.

**6** Section 12.2 presently reads:

*12.2 The aggregate of all royalty tax credits paid under this Act shall*

*(a) be applied by the Provincial Treasurer to reduce non-renewable resource revenue, as defined in the Alberta Heritage Savings Trust Fund Act, and*

*(b) be excluded from the total amounts used to determine the transfers required to be made to the Alberta Heritage Savings Trust Fund pursuant to section 5 of the Alberta Heritage Savings Trust Fund Act or any Special Act referred to in that section and enacted before or after the commencement of this section, notwithstanding anything in those Acts.*

**7** Section 15(1) and (4) presently read:

*15(1) A return for each taxation year in the case of a corporation and for each taxation year for which a tax is payable in the case of an individual shall, without notice or demand therefor, be filed with the Provincial Treasurer in the prescribed form and containing the prescribed information,*

*(a) in the case of a corporation, by or on behalf of the corporation within 6 months from the end of the year,*

*(b) in the case of a person who has died without making his return, by his legal representative, within 6 months from the day of death,*

*(c) in the case of an estate or trust, within 90 days from the end of the year,*

*(d) in the case of any other person, on or before April 30 in the next year, by that person or, if he is unable for any reason to file the return, by his guardian, curator, tutor, committee or other legal representative, and*

*(e) in a case where no person described in clause (a), (b) or (d) has filed the return, by the person who is required by notice in writing from the Provincial Treasurer to file the return, within the reasonable time specified in the notice.*

*(4) If a partner or an individual who is a proprietor of a business died after the close of a fiscal period but before the end of the calendar year in which the fiscal period closed, a separate return of the taxpayer's income as a member of the partnership or as a proprietor of the business, after the close of the fiscal period to the time of death may be filed and, if a separate return is filed, the tax under this Part shall be paid on the taxpayer's income as such member or proprietor after the close of the fiscal period to the time of death as if that income were the income of another person.*

*(2) Subsection (1)(a) and (c) apply to 1985 and subsequent taxation years.*

*(3) Subsection (1)(b) applies after October 28, 1985.*

*8(1) Section 17 is amended*

*(a) by repealing subsection (1.1) and substituting the following:*

*(1.1) Where the Provincial Treasurer ascertains the amount of a taxpayer's non-capital loss, net capital loss, restricted farm loss or farm loss for a taxation year and the taxpayer has not reported that amount as such a loss in his return for that year, the Provincial Treasurer shall, at the request of the taxpayer, determine, with all due dispatch, the amount of that loss and shall send a notice of determination to the person by whom the return was filed.*

*(b) in subsection (4)*

*(i) by striking out "4 years" wherever it occurs and substituting "3 years";*

*(ii) in clause (b) by striking out "7 years" and substituting "6 years";*

*(c) by adding the following after subsection (4):*

*(4.1) Where the Provincial Treasurer would, but for this subsection, be entitled to reassess, make an additional assessment or assess tax, interest or penalties and determine the entitlement to and the amount, if any, of the refundable tax credits by virtue only of the filing of a waiver under subsection (4)(a)(ii), the Provincial Treasurer may not make that reassessment, additional assessment, assessment or determination after the day that is 6 months after the date on which a notice of revocation of the waiver in the prescribed form is filed.*

*(d) in subsection (5)*

*(i) in clause (a) by striking out "computing";*

*(ii) by striking out "4 years" wherever it occurs and substituting "3 years";*

*(e) in subsection (6) by striking out "4 years" and substituting "3 years".*

*(2) Subsection (1)(a) applies after October 28, 1985.*

*(3) Subsection (1)(b), (d) and (e) apply to 1983 and subsequent taxation years.*

*(4) Subsection (1)(c) applies after February 15, 1984, except that in the application of section 17(4.1) of the Alberta Income Tax Act to a waiver filed before February 16, 1984 that is revoked by a notice of revocation filed before 1986, the reference to "6 months" shall be read as a reference to "1 year".*

**8** Section 17(1.1), (4), (5) and (6) presently read:

*(1.1) Where the Provincial Treasurer ascertains the amount of a taxpayer's non-capital loss, net capital loss, restricted farm loss or farm loss for a taxation year and that amount is different from the amount reported by the taxpayer in his return of income for that year, the Provincial Treasurer shall, at the request of the taxpayer, determine, with all due dispatch, the amount of the taxpayer's non-capital loss, net capital loss, restricted farm loss or farm loss, as the case may be, and shall send a notice of determination to the person by whom the return was filed.*

*(4) The Provincial Treasurer may, at any time, assess tax, interest or penalties under this Act or notify in writing any person by whom a return for a taxation year has been filed that no tax is payable for the taxation year and may determine the entitlement to and the amount, if any, of a taxpayer's refundable tax credit, and may*

*(a) at any time, if the taxpayer or person filing the return*

*(i) has made a misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in filing the return or in supplying any information under this Act, or*

*(ii) has filed with the Provincial Treasurer a waiver in the prescribed form within 4 years from the day of mailing of a notice of an original assessment or a notification that no tax is payable for a taxation year,*

*(b) within 7 years from the day referred to in clause (a)(ii), if*

*(i) an assessment or reassessment of the tax of the taxpayer was required pursuant to subsection (7) or (7.1) or would have been required if the taxpayer had claimed an amount by filing the prescribed form referred to in those subsections on or before the day referred to in those subsections, or*

*(ii) there is reason, as a consequence of*

*(A) the assessment or reassessment of another taxpayer's tax pursuant to this clause or subsection (7) or (7.1), or*

*(B) in the case of a corporation, the assessment or reassessment under the new Act of the taxpayer's tax for a taxation year to which the new Act applies,*

*to assess or reassess the taxpayer's tax for any relevant year, and*

*(c) in any case other than those described in clauses (a) and (b), within 4 years from the day referred to in clause (a)(ii),*

*reassess or make additional assessments, or assess tax, interest or penalties under this Act and determine the entitlement to and the amount, if any, of the refundable tax credits, as the circumstances require, except that a reassessment, additional assessment or assessment may be made under clause (b) after 4 years from the day referred to in clause (a)(ii) only to the extent that it may reasonably be regarded as relating to the assessment or reassessment referred to in clause (b).*

*(5) Notwithstanding subsection (4), there shall not be included in computing the income of a taxpayer, for the purpose of any reassessment, additional assessment or assessment of tax, interest or penalties under this Act*

*9(1) Section 18(1) is amended*

*(a) by repealing clause (d) and substituting the following:*

*(d) a death benefit,*

*(b) by striking out “or” at the end of clause (n), by adding “or” at the end of clause (o) and by adding the following after clause (o):*

*(p) an amount described in paragraph 115(2)(c.1) of the federal Act,*

*(2) Subsection (1)(a) applies to 1985 and subsequent taxation years.*

*(3) Subsection (1)(b) applies after October 28, 1985.*



*that is made after the expiration of 4 years from the day referred to in subsection (4)(a)(ii), any amount*

*(a) that was not included in computing his income for the purposes of an assessment of tax made before the expiration of 4 years from that day,*

*(b) in respect of which the taxpayer establishes that the failure so to include it did not result from any misrepresentation that is attributable to negligence, carelessness or wilful default or from any fraud in filing a return of his income or supplying any information under this Act, and*

*(c) where any waiver has been filed by the taxpayer with the Provincial Treasurer, in the form and within the time referred to in subsection (4), with respect to a taxation year to which the reassessment, additional assessment or assessment of tax, interest or penalties, as the case may be, relates, that the taxpayer establishes cannot reasonably be regarded as relating to a matter specified in the waiver.*

*(6) If a collection agreement is entered into, notwithstanding that more than 4 years have elapsed since the day referred to in subsection (4)(a)(i), the Minister shall reassess or make additional assessments, or assess tax, interest or penalties, as the circumstances require, when the tax payable under Part I of the federal Act is reassessed.*

**9 Section 18(1) presently reads:**

*18(1) Every person paying at any time in a taxation year*

*(a) salary or wages or other remuneration,*

*(b) a superannuation or pension benefit,*

*(c) a retiring allowance,*

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

*(e) an amount as a benefit under the Unemployment Insurance Act, 1971 (Canada),*

*(f) an amount as a benefit under a supplementary unemployment benefit plan,*

*(g) an annuity payment,*

*(h) fees, commissions or other amounts for services,*

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

*(j) a payment out of or under a registered retirement income fund,*

*(k) a training allowance under the National Training Act (Canada),*

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

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

*(n) an amount as a benefit under the Labour Adjustment Benefits Act (Canada), or*

*(o) one or more amounts to an individual who has elected for the year in prescribed form in respect of all such amounts,*

*10(1) Section 19(1)(a)(i) is amended by adding “computed without reference to section 127.3 of the federal Act” after “year”.*

*(2) Subsection (1) applies with respect to amounts deducted under section 127.3 of the federal Act in respect of shares, debt obligations and rights acquired after February 15, 1984, other than shares, debt obligations or rights acquired before March 1, 1984 where arrangements, evidenced in writing, for the issue of the shares or debt obligations or for the granting of the rights were substantially advanced before February 16, 1984.*

*11(1) Section 20(1)(a)(i) is amended by adding “computed without reference to section 127.3 of the federal Act” after “year”.*

*(2) Subsection (1) applies with respect to amounts deducted under section 127.3 of the federal Act in respect of shares, debt obligations and rights acquired after February 15, 1984, other than shares, debt obligations or rights acquired before March 1, 1984 where arrangements, evidenced in writing, for the issue of the shares or debt obligations or for the granting of the rights were substantially advanced before February 16, 1984.*

*12(1) Section 23 is repealed and the following is substituted:*

**23** If the Provincial Treasurer mails a notice of assessment of any amount payable by a taxpayer, that part of the amount assessed then remaining unpaid is payable forthwith by the taxpayer to the Provincial Treasurer.

*(2) Subsection (1) applies with respect to notices of assessment mailed after October 29, 1985.*

*13(1) Section 25 is amended*

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

(2) In addition to the interest payable under subsection (1), when a taxpayer who is required by this Act to pay a part or instalment of tax has failed to pay all or any part of it on or before the day on or before which the tax or instalment, as the case may be, was required to be paid, he shall pay to the Provincial Treasurer interest at the prescribed rate on the amount that he failed to pay computed from the day on or before which the amount was required to be paid to the day of payment, or to the beginning of the period in respect of

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

**10** Section 19(1) presently reads:

*19(1) Every individual, except an individual to whom section 18(2) applies, whose chief source of income is farming or fishing shall pay to the Provincial Treasurer*

*(a) on or before December 31 in each taxation year,  $\frac{2}{3}$  of*

*(i) the amount estimated by him to be his tax payable under this Act for the year, or*

*(ii) his tax payable under this Act for the immediately preceding year,*

*and*

*(b) on or before April 30 in the next year, the remainder of the tax as estimated under section 16.*

**11** Section 20(1) presently reads:

*20(1) Every individual, other than one to whom section 18(2) or section 19 applies, shall pay to the Provincial Treasurer*

*(a) on or before March 31, June 30, September 30 and December 31, respectively, in each taxation year, an amount equal to 25% of*

*(i) the amount estimated by him to be his tax payable under this Act for the year, or*

*(ii) his tax payable under this Act for the immediately preceding year,*

*and*

*(b) on or before April 30 in the next year, the remainder of the tax as estimated under section 16.*

**12** Section 23 presently reads:

*23(1) The taxpayer shall, within 30 days from the day of mailing of the notice of assessment, pay to the Provincial Treasurer any part of the assessed tax, interest and penalties then remaining unpaid, whether or not an objection to or an appeal from the assessment is outstanding.*

*(2) When, in the opinion of the Provincial Treasurer, a taxpayer is attempting to avoid payment of taxes, the Provincial Treasurer may direct that all taxes, penalties and interest be paid forthwith on assessment.*

**13** Section 25(2), (4) and (9) presently read:

*(2) In addition to the interest payable under subsection (1), when a taxpayer, being required by this Act to pay a part or instalment of tax, has failed to pay all or any part thereof as required, he shall, on payment of the amount he failed to pay, pay interest at the rate per year prescribed for the purposes of subsection 161(1) of the federal Act from the day on or before which he was required to make the payment to the day of payment or the beginning of the period in respect of which he is liable to pay interest thereon under subsection (1), whichever is earlier.*

*(4) For the purposes of subsection (2), when an individual is required to pay a part or instalment of tax for a taxation year as estimated by him with reference to a preceding year or with reference to the taxation year,*

which he is required to pay interest on it under subsection (1), whichever is earlier.

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

(2.1) If the aggregate of all amounts, each of which is an amount of interest payable by a taxpayer under subsection (2) or subsection 161(2) of the federal Act, does not exceed \$25 for a taxation year, the Provincial Treasurer shall not assess that interest.

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

(4) For the purposes of subsection (2), when an individual is required to pay a part or instalment of tax for a taxation year computed by reference to

(a) the amount estimated by him to be the tax payable under this Act by him for the year computed without reference to section 127.3 of the federal Act, or

(b) his instalment base for the immediately preceding taxation year,

he shall be deemed to have been liable to pay a part or instalment computed by reference to the lesser of

(c) the tax payable under this Act by him for the year computed without reference to section 127.3 of the federal Act, and

(d) his instalment base for the immediately preceding taxation year.

(d) *in subsection (9)(a)*

(i) *by repealing subclause (i);*

(ii) *by striking out “or” at the end of subclause (iv) and by adding the following after subclause (iv):*

(iv.1) any amount deducted in computing his income for the year by virtue of an election in a subsequent taxation year under paragraph 164(6)(c) or (d) of the federal Act by his legal representative, or

(e) *in subsection (9)(b)*

(i) *by striking out “on the later of” and substituting “on the day that is the latest of”;*

(ii) *by repealing subclauses (i) and (ii) and substituting the following:*

(i) the first day immediately following that subsequent taxation year,

(ii) the day on which the taxpayer’s return for that subsequent taxation year was filed,

(iii) if an amended return of the taxpayer’s income for the taxation year or a prescribed form amending his return for the year was filed in accordance with subsection 49(4) of the federal Act or section 17(7) of this Act, the

*he shall be deemed to have been liable to pay a part or instalment computed by reference to his tax for*

- (a) the preceding year, or*
- (b) the taxation year,*

*whichever is the lesser.*

*(9) For the purpose of computing interest under subsection (1) or (2) on tax or a part or an instalment of tax for a taxation year,*

- (a) the tax payable by the taxpayer shall be deemed to be the amount that it would have been if none of the following amounts, namely,*
  - (i) any amount deducted under paragraph 3(e) of the federal Act by virtue of his death in a subsequent taxation year and the consequent application of section 71 of the federal Act in respect of an allowable capital loss for the year,*
  - (ii) any amount deducted under section 41 of the federal Act in respect of his listed-personal-property loss for a subsequent taxation year,*
  - (iii) any amount excluded from his income for the year by virtue of section 49 of the federal Act in respect of the exercise of an option in a subsequent taxation year,*
  - (iv) any amount deducted under section 110 of the federal Act in respect of a gift made in a subsequent taxation year or under section 111 of the federal Act in respect of a loss for a subsequent taxation year, or*
  - (v) any amount deducted under subsection 127.3(1) of the federal Act in respect of his unused scientific research tax credit for a subsequent taxation year,*

*were so excluded or deducted for the year, as the case may be, and*

- (b) the amount by which the tax payable by the taxpayer for the year is reduced by virtue of the exclusion or deduction, as the case may be, of an amount described in clause (a)(i) to (v) shall be deemed to have been paid by the taxpayer on account of his tax payable for the year on the later of*
  - (i) the day on which his return under section 15 was filed for that subsequent taxation year, and*
  - (ii) the day on or before which he is, or would be if a tax under this Act were payable by him for that subsequent taxation year, required to file a return under section 15 for that subsequent taxation year.*

day on which the amended return or prescribed form was filed, and

(iv) if, as a consequence of a request in writing, the Provincial Treasurer reassessed the taxpayer's tax for the year to take into account the deduction or exclusion, the day on which the request was made.

(iii) in subclause (ii) as enacted by section 13(1)(e)(ii) of this Act, by adding "or his legal representative's" after "taxpayer's";

(iv) in subclause (iii) as enacted by section 13(1)(e)(ii) of this Act,

(A) by striking out "taxation";

(B) by adding "or 28(8)" after "section 17(7)";

(f) by adding the following after subsection (9):

(10) For the purposes of subsection (2), if an amount has been deducted by virtue of paragraph 127.3(1)(a) of the federal Act in computing the tax payable under this Act by a taxpayer for a taxation year, the amount so deducted shall be deemed to have been paid by the taxpayer

(a) in the case of a taxpayer who has filed a return under this Act for the year as required by section 15, on the last day of the year, and

(b) in any other case, on the day on which the taxpayer filed his return under this Act for the year.

(2) Subsection (1)(a) applies after October 28, 1985.

(3) Subsection (1)(b) applies to 1984 and subsequent taxation years.

(4) Subsection (1)(c) and (f) apply with respect to amounts deducted under section 127.3 of the federal Act in respect of shares, debt obligations and rights acquired after February 15, 1984, other than shares, debt obligations or rights acquired before March 1, 1984 where arrangements, evidenced in writing, for the issue of the shares or debt obligations or for the granting of the rights were substantially advanced before February 16, 1984.

(5) Subsection (1)(d)(i) applies to 1986 and subsequent taxation years.

(6) Subsection (1)(d)(ii) and (e)(iii) and (iv) apply to 1985 and subsequent taxation years.

(7) Subsection (1)(e)(i) and (ii) are applicable with respect to subsequent taxation years referred to in section 25(9)(b) of the Alberta Income Tax Act, as amended by subsection (1)(e)(i) and (ii), ending after 1984.

14(1) Section 27(2) is amended by striking out "income for a year of" and substituting "income" for a year of".

(2) Subsection (1) applies after October 28, 1985.

**14** Section 27(2) presently reads:

*(2) For the purpose of subsection (1), the taxable income reported by a person in his return for a taxation year shall be deemed not to be less than nil and the “understatement of income for a year” of a person has the meaning assigned to that expression in subsection 163(2.1) of the federal Act.*

*15(1) Section 28 is amended*

*(a) in subsection (1)*

- (i) by striking out “4 years” and substituting “3 years”;*
- (ii) in clause (a) by adding “or after” before “mailing”;*
- (iii) in clause (a) by striking out “made on account of the tax” and substituting “for the year”;*
- (iv) in clause (b)(i) by striking out “7 year” and substituting “6-year”;*
- (v) in clause (b)(ii) by striking out “4 year” and substituting “3-year”;*

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

*(1.1) Subject to subsection (1.2), if a taxpayer*

*(a) has under section 29 served a notice of objection to an assessment and the Provincial Treasurer has not within 120 days after the day of service confirmed or varied the assessment or made a reassessment in respect of it, or*

*(b) has appealed from an assessment to the court or to the Court of Appeal,*

*and has applied in writing to the Provincial Treasurer for a payment or surrender of security, the Provincial Treasurer shall with all due dispatch repay all amounts paid on account of the amount assessed or surrender security accepted for the amount assessed to the extent that*

*(c) the lesser of*

*(i) the aggregate of the amounts so paid and the value of the security, and*

*(ii) the amount so assessed*

*exceeds*

*(d) the amount, if any, so assessed that is not in controversy.*

*(1.2) If it may reasonably be considered that collection of all or any part of an amount assessed in respect of a taxpayer would be jeopardized by a repayment of an amount or surrender of security to the taxpayer under subsection (1.1), the Provincial Treasurer may direct that the repayment of the amount or a part of it not be made or that the security or part of it not be surrendered and shall give notice of the direction to the taxpayer by personal service or by registered letter addressed to the taxpayer at his latest known address.*

*(1.3) If pursuant to subsection (1.2) the Provincial Treasurer has given notice to the taxpayer of a direction, section 42.2(2) to (8) are applicable in respect of the direction.*

*(c) in subsection (2)*

- (i) by adding “or repayment” after “refund”;*



**15** Section 28 presently reads in part:

*28(1) When the return required to be filed by a taxpayer for a taxation year is made within 4 years from the end of the year, the Provincial Treasurer*

*(a) may, on mailing the notice of assessment for the year, refund, without application therefor, any overpayment made on account of the tax, and*

*(b) shall, with all due dispatch, make such a refund after mailing the notice of assessment if application for it has been made in writing by the taxpayer within*

*(i) the 7 year period referred to in section 17(4)(b), where that clause applies, and*

*(ii) in any other case, the 4 year period referred to in section 17(4)(c).*

*(2) Instead of making a refund that might otherwise be made under this section, the Provincial Treasurer may, when the taxpayer is liable or about to become liable to make another payment under this Act, apply the amount of the overpayment to that other liability and notify the taxpayer of that action.*

*(3) When an amount in respect of an overpayment for a taxation year is refunded or applied under this section on other liability, interest at the rate per year prescribed for the purposes of subsection 164(3) of the federal Act shall be paid or applied thereon for the period commencing with the latest of*

*(a) the day when the overpayment arose,*

*(b) the day on or before which the return for the year was required to be filed or would have been required to be filed if tax were payable for the year, and*

*(c) the day when the return for the year was filed,*

*and ending with the day of refunding or application, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection.*

*(3.1) If, at any particular time, interest has been paid to, or applied to a liability of, a taxpayer pursuant to subsection (3) in respect of an overpayment and it is determined at a subsequent time that the actual overpayment was less than the overpayment in respect of which interest was paid or applied, the following rules apply:*

*(a) the amount by which the interest that has been paid or applied exceeds the interest, if any, computed in respect of the amount that is determined at the subsequent time to be the actual overpayment shall be deemed to be an amount, in this subsection referred to as "the amount payable", that became payable under this Act by the taxpayer at the particular time;*

*(b) the taxpayer shall pay interest, at the rate prescribed for the purposes of subsection 161(1) of the federal Act, on the amount payable for the period beginning at the particular time and ending on the date of payment;*

*(c) the Provincial Treasurer may, at any time, assess the taxpayer in respect of the amount payable and, where the Provincial Treasurer makes that assessment, the provisions of this Act apply, with any necessary modifications, in respect of the assessment as though it had been made under section 17.*

(ii) *by striking out “overpayment” and substituting “refund or repayment”;*

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

(3) If under this section an amount paid on account of a taxpayer's tax under this Act for a taxation year is refunded or repaid, or applied to another liability, the Provincial Treasurer shall pay or apply interest on the amount at the rate prescribed for the purposes of subsection 164(3) of the federal Act for the period beginning on the day that is the latest of the following days:

(a) the day on or before which the taxpayer's return under this Act for the year was required to be filed under section 15 or would have been required to be so filed if tax under this Act were payable by him for the year,

(b) the day on which the taxpayer's return under this Act for the year was filed under section 15, unless the return was filed on or before the day on or before which it was required to be filed, or would have been required to be filed if tax under this Act were payable by him for the year,

(c) in the case of a refund of an overpayment, the day the overpayment arose, and

(d) in the case of a repayment of tax in controversy, the day an overpayment equal to the amount of the repayment would have arisen if the tax payable by the taxpayer under this Act for the year were the amount by which

(i) the lesser of the amount paid on account of his tax payable under this Act for the year and the amount assessed by the Provincial Treasurer as tax payable under this Act by the taxpayer for the year

exceeds

(ii) the amount repaid,

and ending on the day the amount is refunded, repaid or applied, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection.

(e) *by repealing subsection (3.1)(b) and substituting the following:*

(b) the taxpayer shall pay to the Provincial Treasurer interest at the rate prescribed for the purposes of subsection 164(3.1) of the federal Act on the amount payable computed from that particular time to the day of payment;

(f) *by repealing subsection (4) and substituting the following:*

(4) If at any particular time interest has been paid to, or applied to a liability of, a taxpayer pursuant to subsection (3) in respect of the repayment of tax in controversy made to, or applied to a liability of, the taxpayer and it is determined at a subsequent time that the repayment or a part of it is payable by the taxpayer under this Act, the following rules apply:

*(4) When, by a decision of the Provincial Treasurer under section 29 or by a decision of the court or of the Supreme Court of Canada, it is finally determined that the tax payable by a taxpayer for a taxation year under this Act is less than the amount assessed by the assessment under section 17 to which the objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment for the taxation year, the interest payable under subsection (3) on that overpayment shall be computed at the rate per year prescribed for the purposes of subsection 161(1) of the federal Act instead of that prescribed for the purposes of subsection 164(3) of the federal Act.*

*(6) For the purposes of this section, "overpayment" of a taxpayer for a taxation year means*

*(a) the amount by which all amounts paid on account of his tax, interest and penalties under this Act for the year exceed all amounts payable by him on account of tax, interest and penalties for the year, or*

*(b) the amount of the refundable tax credits to which a taxpayer is entitled for the year less, in the case of the renter assistance credit, any amount deducted under section 10(14) and, in the case of royalty tax credit, any amount deducted under section 12(17).*

*(7) For the purpose of computing interest under subsection (3), the portion of any overpayment of the tax payable by a taxpayer, other than a corporation to which subsection (7.1) applies, for a taxation year that arose as a consequence of*

*(a) the deduction of an amount under paragraph 3(e) of the federal Act, by virtue of his death in a subsequent taxation year and the consequent application of section 71 of the federal Act in respect of an allowable capital loss for the year,*

*(b) the deduction of an amount under section 41 of the federal Act in respect of his listed-personal-property loss for a subsequent taxation year,*

*(c) the exclusion of an amount from his income for the year by virtue of section 49 of the federal Act in respect of the exercise of an option in a subsequent taxation year,*

*(d) the deduction of an amount under section 110 of the federal Act in respect of a gift made in a subsequent taxation year or under section 111 of the federal Act in respect of a loss for a subsequent taxation year, or*

*(e) the deduction of an amount under subsection 127.3(1) of the federal Act in respect of his unused scientific research tax credit for a subsequent taxation year,*

*shall be deemed to have arisen on the later of*

*(f) the day on which his return under section 15 was filed for that subsequent taxation year, and*

*(g) the day on or before which the taxpayer is, or would be if tax under this Act were payable by him for that subsequent taxation year, required to file his return under section 15 for that subsequent taxation year.*

*(8) When, in the course of administering the estate of a deceased taxpayer, the taxpayer's legal representative has, within the 12-month period immediately following the death of the taxpayer, disposed of certain property of the estate described in paragraph 164(6)(a) or (b) of the federal Act, subsection 164(6) of the federal Act is applicable with all necessary modifications.*

(a) the interest so paid or applied on that part of the repayment that is determined at the subsequent time to be payable by the taxpayer under this Act shall be deemed to be an amount, in this subsection referred to as the "interest excess", that became payable under this Act by the taxpayer at the particular time;

(b) the taxpayer shall pay to the Provincial Treasurer interest at the rate prescribed for the purposes of subsection 164(4) of the federal Act on the interest excess computed from the particular time to the day of payment;

(c) the Provincial Treasurer may at any time assess the taxpayer in respect of the interest excess and, if the Provincial Treasurer makes such an assessment, the provisions of this Act are applicable in respect of the assessment as if it had been made under section 17.

(g) *by adding the following after subsection (4):*

(4.1) If the court, the Court of Appeal or the Supreme Court of Canada has, on the disposition of an appeal in respect of taxes, interest or a penalty payable under this Act by a taxpayer resident in Canada,

(a) referred an assessment back to the Provincial Treasurer for reconsideration and reassessment,

(b) varied or vacated an assessment, or

(c) ordered the Provincial Treasurer to repay tax, interest or penalties,

the Provincial Treasurer shall with all due dispatch, whether or not an appeal from the decision of the court, Court of Appeal or Supreme Court has been or may be instituted,

(d) if the assessment has been referred back to him, reconsider the assessment and make a reassessment in accordance with the decision of that court, unless otherwise directed in writing by the taxpayer,

(e) refund any overpayment resulting from the variation, vacation or reassessment, and

(f) if clause (c) is applicable, repay any tax, interest or penalties as ordered,

and the Provincial Treasurer may repay any tax, interest or penalties or surrender any security accepted for them by him to any other taxpayer who has filed an objection or instituted an appeal if, having regard to the reasons given on the disposition of the appeal, he is satisfied that it would be just and equitable to do so, but for greater certainty, the Provincial Treasurer may, in accordance with the provisions of this Act, the *Court of Queen's Bench Act*, the *Court of Appeal Act* or the *Supreme Court Act* (Canada) as they relate to appeals from decisions of the court or the Court of Appeal, appeal from the decision of the court or the Court of Appeal notwithstanding any variation or vacation of any assessment by the court or the Court of Appeal or any reassessment made



by the Provincial Treasurer under clause (d), and an appeal from a decision of the court or the Court of Appeal shall proceed as if it were an appeal from the assessment that was referred back, varied or vacated.

(h) *in subsection (6)*

(i) *by repealing clause (a) and substituting the following:*

(a) the aggregate of all amounts paid on account of the taxpayer's liability under this Act for the year minus all amounts payable in respect of that liability, or

(ii) *in clause (b) by adding "or applied under section 12.1(11)" after "section 12(17)";*

(i) *in subsection (7)*

(i) *by striking out all that portion following clause (e) and substituting the following:*

shall be deemed to have arisen on the day that is the latest of

(f) the first day immediately following that subsequent taxation year,

(g) the day on which the taxpayer's return for that subsequent taxation year was filed,

(h) if an amended return of the taxpayer's income for the year or a prescribed form amending his return for the year was filed under subsection 49(4) of the federal Act or section 17(7) of this Act, the day on which the amended return or prescribed form was filed, and

(i) if, as a consequence of a request in writing, the Provincial Treasurer reassessed the taxpayer's tax for the year to take into account the deduction or exclusion, the day on which the request was made.

(ii) *by repealing clause (a);*

(iii) *by striking out "or" at the end of clause (d), by adding "or" at the end of clause (e) and by adding the following after clause (e):*

(e.1) the deduction of an amount in computing his income for the year by virtue of an election for a subsequent taxation year under subsection (8) by his legal representative,

(iv) *in clause (g), as enacted by section 15(1)(i)(i) of this Act, by adding "or his legal representative's" after "taxpayer's";*

(v) *in clause (h), as enacted by section 15(1)(i)(i) of this Act, by adding "or 28(8)" after "section 17(7)";*

(j) *by adding the following after subsection (7.1):*

(7.2) If a repayment made under subsection (1.1) or (4.1) or an amount applied under subsection (2) in respect of a repayment, or a part of a repayment, may reasonably be regarded as being in respect of a claim made by a taxpayer in an ob-



jection to or appeal from an assessment of tax for a taxation year for

- (a) the deduction of an amount under paragraph 3(e) of the federal Act, by virtue of his death in a subsequent taxation year and the consequent application of section 71 of the federal Act in respect of an allowable capital loss for the year,
- (b) the deduction of an amount under section 41 of the federal Act in respect of his listed-personal-property loss for a subsequent taxation year,
- (c) the exclusion of an amount from his income for the year by virtue of section 49 of the federal Act in respect of the exercise of an option in a subsequent taxation year,
- (d) the deduction of an amount under section 110 of the federal Act in respect of a gift made in a subsequent taxation year or under section 111 of the federal Act in respect of a loss for a subsequent taxation year, or
- (e) the deduction of an amount under subsection 127.3(1) of the federal Act in respect of his unused scientific research and experimental development tax credit for a subsequent taxation year,

interest shall not be paid or applied on the repayment for any part of a period that is before the latest of

- (f) the first day immediately following that subsequent taxation year,
- (g) the day on which the taxpayer's return for that subsequent taxation year was filed,
- (h) if an amended return of the taxpayer's income for the year or a prescribed form amending his return for the year was filed under subsection 49(4) of the federal Act or section 17(7) of this Act, the day on which the amended return or prescribed form was filed, and
- (i) if, as a consequence of a request in writing, the Provincial Treasurer reassessed the taxpayer's tax for the year to take into account the deduction or exclusion, the day on which the request was made.

(k) *in subsection (7.2), as enacted by section 15(1)(j) of this Act,*

*(i) by repealing clause (a);*

*(ii) by striking out "or" at the end of clause (d), adding "or" at the end of clause (e) and adding the following after clause (e):*

*(e.1) the deduction of an amount in computing his income for the year by virtue of an election for a subsequent taxation year under subsection (8) by his legal representative,*

*(iii) in clause (g) by adding "or his legal representative's" after "taxpayer's";*

*(iv) in clause (h) by adding "or 28(8)" after "section 17(7)";*





- (l) in subsection (8) by striking out “the 12-month period immediately following the death of the taxpayer” and substituting “the first taxation year of the estate”.
- (2) The following apply to 1983 and subsequent taxation years:  
 subsection (1)(a)(i), (ii), (iv) and (v);  
 subsection (1)(h).
- (3) Subsection (1)(a)(iii) and (e) apply after October 28, 1985.
- (4) Subsection (1)(b) applies with respect to notices of objection served after 1984 and to appeals from assessments objected to after 1984.
- (5) Subsection (1)(c) and (g) apply after February 15, 1984.
- (6) Subsection (1)(d) applies with respect to refunds and repayments made or applied after 1984 except that, with respect to refunds or repayments of amounts paid by taxpayers in respect of taxes for the 1984 or a preceding taxation year, section 28(3)(b) of the Alberta Income Tax Act, as enacted by subsection (1)(d), shall be read without reference to “unless the return was filed on or before the day on or before which it was required to be filed, or would have been required to be filed if tax under this Act were payable by him for the year”.
- (7) Subsection (1)(f) applies with respect to repayments made or applied after 1984.
- (8) Subsection (1)(i)(i) applies with respect to subsequent taxation years referred to in section 28(7) of the Alberta Income Tax Act, as amended by subsection (1)(i)(i), ending after 1984.
- (9) The following apply to 1986 and subsequent taxation years:  
 subsection (1)(i)(ii);  
 subsection (1)(k)(i).
- (10) The following apply to 1985 and subsequent taxation years:  
 subsection (1)(i)(iii) to (v);  
 subsection (1)(k)(ii) to (iv);  
 subsection (1)(l).
- (11) Subsection (1)(j) applies with respect to repayments made or applied after 1984, except that if the subsequent taxation year referred to in section 28(7.2) of the Alberta Income Tax Act, as enacted by subsection (1)(j), ends before 1985, section 28(7.2)(f) to (i) of the Alberta Income Tax Act, as enacted by subsection (1)(j), shall be read as follows:  
 (f) the day on which the taxpayer’s return under section 15 was filed for that subsequent taxation year, and  
 (g) the day on or before which the taxpayer is, or would be if tax under this Act were payable by him for that subsequent taxation year, required to file his return under section 15 for that subsequent taxation year.
- 16(1) Section 29(5) is amended by striking out “4 years” and substituting “3 years”.
- (2) Subsection (1) applies to 1983 and subsequent taxation years.

**16** Section 29(5) presently reads:

*(5) A reassessment made by the Provincial Treasurer pursuant to subsection (3) is not invalid by reason only of not having been made within 4 years from the day of mailing of a notice of an original assessment or of a notification described in section 17(4).*

*17(1) Section 30(1)(b) is amended by striking out “180 days” and substituting “90 days”.*

*(2) Subsection (1) applies to notices of objection served after this Act comes into force.*

*18 Section 33 is repealed and the following is substituted:*

**33** Proceedings in the court and the Court of Appeal under this Division may, on the application of the taxpayer, be held in private if the taxpayer establishes to the satisfaction of the court or the Court of Appeal, as the case may be, that the circumstances of the case justify private proceedings.

*19(1) The following is added after section 33:*

**33.1** If the court disposes of an appeal by a taxpayer in respect of an amount payable under this Act or if such an appeal has been discontinued or dismissed without trial, the court may, on the application of the Provincial Treasurer, and whether or not it awards costs, order the taxpayer to pay to the Provincial Treasurer an amount not exceeding 10% of the amount that was in controversy if it determines that there were no reasonable grounds for the appeal and one of the main purposes for instituting or maintaining the appeal was to defer the payment of an amount payable under this Act.

*(2) Subsection (1) applies with respect to appeals from assessments objected to after this Act comes into force.*

*20(1) Section 36 is amended*

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

(3) The Provincial Treasurer may, if he considers it advisable in a particular case, accept security for payment of any amount that is or may become payable under this Act.

*(b) by adding the following after subsection (3):*

(3.1) If a taxpayer has objected to or appealed from an assessment under this Act, the Provincial Treasurer shall accept adequate security furnished by or on behalf of the taxpayer for payment of the amount in controversy while the objection or appeal is outstanding.

(3.2) If at any time a taxpayer requests in writing that the Provincial Treasurer surrender any security accepted by the Provincial Treasurer under subsection (3) or (3.1), the Provincial Treasurer shall surrender the security to the extent that

**17** Section 30(1) presently reads:

*30(1) A taxpayer who has served a notice of objection to an assessment under section 29(1) may appeal to the court to have the assessment vacated or varied after either*

*(a) the Provincial Treasurer has confirmed the assessment or reassessed, or*

*(b) 180 days have elapsed after the service of the notice of objection and the Provincial Treasurer has not notified the taxpayer that he has vacated or confirmed the assessment or reassessed,*

*but no appeal under this section may be instituted after the expiration of 90 days from the day notice has been mailed to the taxpayer in accordance with section 29(3) that the Provincial Treasurer has confirmed the assessment or reassessed.*

**18** Section 33 presently reads:

*33 Proceedings under this Division shall be held in private on request made to the court by the taxpayer.*

**19** No reasonable grounds for appeal.

**20** Section 36(3) presently reads:

*(3) The Provincial Treasurer may, if he considers it advisable in a particular case, accept security for payment of taxes by way of mortgage or other charge of any kind whatsoever on property of the taxpayer or any other person or by way of guarantee from other persons.*

the value of the security exceeds the aggregate of amounts payable under this Act by the taxpayer at that time.

(2) *Subsection (1)(a) applies after February 15, 1984.*

(3) *Subsection (1)(b) applies after October 28, 1985.*

21 *Section 39(1)(a) and (b) are repealed.*

22(1) *Section 42(1) is repealed and the following is substituted:*

**42(1)** If a person has failed to pay an amount as required by this Act, the Provincial Treasurer may give 30 days' notice to the person by registered mail addressed to his latest known address of the Provincial Treasurer's intention to direct that the person's goods and chattels be seized and sold, and, if the person fails to make the payment before the expiration of the 30 days, the Provincial Treasurer may issue a certificate of the failure and direct that the person's goods and chattels be seized.

(2) *Subsection (1) applies after October 28, 1985.*

23(1) *The following is added after section 42:*

**42.1(1)** If a taxpayer is liable for the payment of an amount assessed under this Act, in this subsection referred to as the "unpaid amount", other than an amount payable under section 44(7), the Provincial Treasurer shall not, for the purpose of collecting the unpaid amount,

(a) commence legal proceedings in any court of competent jurisdiction,

(b) certify the unpaid amount under section 39(1),

(c) require a person to make a payment under section 41(1.1),

(d) require an institution or person to make a payment under section 41(1.2),

(e) require a person to turn over money under section 41.2(1),  
or

(f) give a notice, issue a certificate or make a direction under section 42

before the day that is 90 days after the day of mailing of the notice of assessment.

(2) If a taxpayer has served a notice of objection under this Act to an assessment of an amount payable under this Act, other than an amount payable under section 44(7), the Provincial Treasurer shall not, for the purpose of collecting the amount in controversy, take any of the actions described in subsection (1)(a) to (f) before the day that is 90 days after the day on which notice is mailed to

**21** Section 39(1) presently reads:

*39(1) An amount payable under this Act that has not been paid or the part of an amount payable under this Act that has not been paid may be certified by the Provincial Treasurer*

*(a) when there has been a direction by the Provincial Treasurer under section 23(2), forthwith after that direction, and*

*(b) otherwise, on the expiration of 30 days after the default.*

**22** Section 42(1) presently reads:

*42(1) If a person has failed to make a payment as required by this Act, the Provincial Treasurer, on giving 10 days' notice by registered mail addressed to his last known place of residence, may, whether or not there is an objection to or appeal in respect of the assessment not disposed of, issue a certificate of the failure and direct that the goods and chattels of the person in default that are located in Alberta be seized.*

**23** Restrictions on the collection by the Provincial Treasurer of amounts in dispute.

the taxpayer that the Provincial Treasurer has confirmed or varied the assessment.

(3) If a taxpayer has appealed from an assessment of an amount payable under this Act, other than an amount payable under section 44(7), to the court or the Court of Appeal, the Provincial Treasurer shall not, for the purpose of collecting the amount in controversy, take any of the actions described in subsection (1)(a) to (f) before the day on which the judgment of the court or the Court of Appeal is pronounced or the day on which the taxpayer discontinues the appeal.

(4) If the Provincial Treasurer is notified that

(a) proceedings have been instituted in the Federal Court of Canada under section 173 of the federal Act, or

(b) the Minister of National Revenue has applied to the Tax Court of Canada or the Federal Court of Canada under section 174 of the federal Act,

the Provincial Treasurer shall not take any of the actions described in subsection (1)(a) to (f) for the purpose of collecting that part of an amount assessed, other than an amount payable under section 44(7), the liability for payment of which will be affected by the determination of the question, before the day on which the question is determined by that court.

(5) Notwithstanding any other provision in this section, if a taxpayer has served a notice of objection under this Act to an assessment or has appealed to the court from the assessment and agrees in writing with the Provincial Treasurer to delay proceedings on the objection or appeal, as the case may be, until judgment has been given in another action before the court, the Court of Appeal, the Tax Court of Canada, the Federal Court of Canada or the Supreme Court of Canada in which the issue is the same or substantially the same as that raised in the objection or appeal of the taxpayer, the Provincial Treasurer may take any of the actions described in subsection (1)(a) to (f) for the purpose of collecting the amount assessed, or a part of the amount determined in a manner consistent with the decision or judgment made in the other action, at any time after the Provincial Treasurer notifies the taxpayer in writing that

(a) the decision has been made by the court in that action,

(b) the decision has been made by the Court of Appeal in that action,

(c) the decision has been made by the Tax Court of Canada in that action,

(d) judgment has been pronounced by the Federal Court of Canada in that action, or

(e) judgment has been delivered by the Supreme Court of Canada in that action,

as the case may be.





**42.2(1)** Notwithstanding section 42.1, if it may reasonably be considered that collection of an amount assessed in respect of a taxpayer would be jeopardized by a delay in the collection of the amount, and the Provincial Treasurer has, by notice served personally or by registered letter addressed to the taxpayer at his latest known address, so advised the taxpayer and directed the taxpayer to pay forthwith the amount assessed or any part of the amount, the Provincial Treasurer may forthwith take any of the actions described in section 42.1(1)(a) to (f) with respect to that amount or the part of the amount.

(2) If the Provincial Treasurer has under subsection (1) directed a taxpayer to pay an amount forthwith, the taxpayer may

(a) on 3 days' notice of motion to the Deputy Attorney General, apply to a judge in the court for an order fixing a day, not earlier than 14 days nor later than 28 days after the date of the order, and a place for the determination of the question whether the direction was justified in the circumstances,

(b) serve a copy of the order on the Deputy Attorney General within 6 days after the day on which it was made, and

(c) if he has proceeded as authorized by clause (b), apply at the appointed time and place for an order determining the question.

(3) An application to a judge under subsection (2)(a) shall be made

(a) within 30 days after the day on which the notice under subsection (1) was served or mailed, or

(b) within the further time that the judge, on being satisfied that the application was made as soon as circumstances permitted, may allow.

(4) An application under subsection (2)(c) may, on the application of the taxpayer, be heard in private if the taxpayer establishes to the satisfaction of the judge that the circumstances of the case justify private proceedings.

(5) On the hearing of an application under subsection (2)(c), the burden of justifying the direction is on the Provincial Treasurer.

(6) On an application under subsection (2)(c), the judge shall determine the question summarily and may confirm, vacate or vary the direction and make any other order that he considers appropriate.

(7) If the judge to whom an application has been made under subsection (2)(a) cannot for any reason act or continue to act in the application under subsection (2)(c), the application under subsection (2)(c) may be made to another judge.

(8) Costs shall not be awarded on the disposition of an application under subsection (2).

*(2) Section 42.1(1) of the Alberta Income Tax Act, as enacted by subsection (1), applies with respect to notices of assessment mailed after 1984.*



*(3) Section 42.1(2) of the Alberta Income Tax Act, as enacted by subsection (1), applies with respect to notices of objection served after 1984.*

*(4) Section 42.1(3) of the Alberta Income Tax Act, as enacted by subsection (1), applies with respect to appeals from assessments objected to after 1984.*

*(5) Section 42.1(4) of the Alberta Income Tax Act, as enacted by subsection (1), applies with respect to assessments made after 1984 and with respect to assessments objected to after 1984.*

*(6) Section 42.1(5) of the Alberta Income Tax Act, as enacted by subsection (1), applies with respect to notices of objection served after 1984 and appeals from assessments objected to after 1984.*

*(7) Section 42.2 of the Alberta Income Tax Act, as enacted by subsection (1), applies after October 28, 1985.*

*24(1) Section 44 is amended*

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

*(5) In the event of any liquidation, assignment or receivership of or by a person, an amount equal to the amount deemed by subsection (4) to be held in trust for Her Majesty in right of Alberta shall be deemed to be separate from and form no part of the estate in liquidation, assignment or receivership, whether or not that amount has in fact been kept separate and apart from the person's own money or from the assets of the estate.*

*(b) by striking out all that portion of subsection (6) following clause (b) and substituting the following:*

*together with interest on the amount that should have been deducted or withheld, at the rate per year prescribed for the purposes of subsection 227(8) of the federal Act, for the period commencing on the later of*

*(c) February 16, 1984, and*

*(d) the 15th day of the month immediately following the month in which the amount should have been so deducted or withheld.*

*(c) in subsection (7) by adding "for the period commencing on the 15th day of the month immediately following the month in which the amount was deducted or withheld" before ", but";*

*(d) in subsection (8) by adding "of the federal Act" before "apply".*

*(2) Subsection (1)(a) applies to amounts that were deducted or withheld after May 23, 1985.*

*(3) Subsection (1)(b) and (c) apply after February 15, 1984.*

*25 Section 46 is repealed and the following is substituted:*

**46** In sections 46.1 to 46.5,

*(a) "authorized person" means a person authorized by the Provincial Treasurer for the purposes of sections 46.1 to 46.5;*

**24** Section 44(5), (6), (7) and (8) presently read:

*(5) All amounts deducted or withheld by a person under this Act shall be kept separate and apart from his own money and, if a collection agreement is entered into, those amounts shall be kept with amounts deducted or withheld by that person under the federal Act.*

*(6) Any person who has failed to deduct or withhold any amount as required by this Act or a regulation is liable to pay to Her Majesty in right of Alberta*

*(a) if the amount should have been deducted or withheld under section 18 from an amount that has been paid to a person resident in Alberta, 10% of the amount that should have been deducted or withheld, and*

*(b) in any other case, the whole amount that should have been deducted or withheld,*

*together with interest thereon at the rate per year prescribed for the purposes of subsection 227(1) of the federal Act.*

*(7) Every person who has failed to remit or pay an amount deducted or withheld as required by this Act or a regulation is liable to a penalty of 10% of that amount or \$10, whichever is the greater, in addition to the amount itself, together with interest on the amount at the rate per year prescribed for the purposes of subsection 227(8) of the federal Act, but if a collection agreement is entered into the Minister may refrain from levying or reduce the penalty if the person who is liable therefor is liable to pay a penalty under subsection 227(9) of the federal Act by reason of the failure to pay an amount described in paragraph (a) of that subsection.*

*(8) The Provincial Treasurer may assess any person for any amount that has been deducted or withheld by that person under this Act or the regulations or that is payable by that person under this section and, on his sending a notice of assessment to that person, Divisions I and J of Part 1 apply, with all necessary modifications.*

**25** Section 46 presently reads:

*46(1) Any person thereunto authorized by the Provincial Treasurer for any purpose related to the administration or enforcement of this Act may, at all reasonable times, enter into any premises or place where any business is carried on in Alberta or any property is kept or anything is done in*

(b) “documents” includes money, securities and any of the following, whether computerized or not: books, records, letters, telegrams, vouchers, invoices, accounts and statements, financial or otherwise;

(c) “dwelling-house” means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence and includes

(i) a building within the curtilage of a dwelling-house that is connected to it by a doorway or by a covered and enclosed passageway, and

(ii) a unit that is designed to be mobile and to be used as a permanent or temporary residence and that is being used as a permanent or temporary residence;

(d) “judge” means a judge of the court.

**46.1(1)** An authorized person may, at all reasonable times, for any purpose related to the administration or enforcement of this Act,

(a) inspect, audit or examine the books and records of a taxpayer and any document of the taxpayer or of any other person that relates or may relate to the information that is or should be in the books or records of the taxpayer or to any amount payable by him under this Act, and

(b) examine property in an inventory of a taxpayer and any property or process of, or matter relating to, the taxpayer or any other person, an examination of which may assist the authorized person in determining the accuracy of the inventory of the taxpayer or in ascertaining the information that is or should be in the books or records of the taxpayer or any amount payable by him under this Act,

and for those purposes the authorized person may

(c) subject to subsection (2), enter into any premises or place where any business is carried on, any property is kept, anything is done in connection with any business or any books or records are or should be kept, and

(d) require the owner or manager of the property or business and any other person on the premises or at the place to give him all reasonable assistance and to answer all proper questions relating to the administration or enforcement of this Act and, for that purpose, require the owner or manager to attend at the premises or place with him.

(2) If any premises or place referred to in subsection (1)(c) is a dwelling-house, an authorized person may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant under subsection (3).

(3) If, on ex parte application by the Provincial Treasurer, a judge is satisfied by information on oath

(a) that there are reasonable grounds to believe that a dwelling-house is a premises or place referred to in subsection (1)(c),

connection with any business, or any books or records are, or should be, kept pursuant to this Act, and may

(a) audit or examine the books and records and any account, voucher, letter, telegram or other document which relates or may relate to the information that is or should be in the books or records or the amount of tax payable under this Act,

(b) examine property described by an inventory or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act,

(c) require the owner or manager of the property or business and any other person on the premises or place to give him all reasonable assistance with his audit or examination and to answer all proper questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, require the owner or manager to attend at the premises or place with him, and

(d) if, during the course of an audit or examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the documents, books, records, papers or things that may be required as evidence as to the contravention of any provision of this Act or a regulation.

(2) The Provincial Treasurer shall,

(a) within 120 days from the date of seizure of documents, books, records, papers or things pursuant to subsection (1)(d), or

(b) if within that time an application is made under this subsection which is, after the expiry of that time, rejected, then forthwith on the disposition of the application,

return the documents, books, records, papers or things to the person from whom they were seized unless the court, on ex parte application made by or on behalf of the Provincial Treasurer supported by evidence on oath establishing that the Provincial Treasurer has reasonable and probable grounds to believe that there has been a contravention of this Act or a regulation and that the seized documents, books, records, papers or things are or may be required as evidence in relation thereto, orders that they be retained by the Provincial Treasurer until they are produced in any court proceedings.

(3) The Provincial Treasurer may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person

(a) any information or additional information, including a return of income or a supplementary return, or

(b) production, or production on oath, of any books, letters, accounts, invoices, statements (financial or otherwise) or other documents,

within the reasonable time that may be stipulated therein.

(4) When the Provincial Treasurer has reasonable and probable grounds to believe that a contravention of this Act or a regulation has been committed or is likely to be committed, he may, with the approval of the court on ex parte application, authorize in writing any officer of the Treasury Department, together with any members of the Royal Canadian Mounted Police or other peace officers that he calls on to assist him and any other persons that may be named therein, to enter and search, if necessary by

(b) that entry into the dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, and

(c) that entry into the dwelling-house has been refused or that there are reasonable grounds to believe that entry into it will be refused,

he shall issue a warrant authorizing an authorized person to enter that dwelling-house subject to any conditions that may be specified in the warrant but, if the judge is not satisfied that entry into that dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, he shall

(d) order the occupant of the dwelling-house to provide reasonable access to an authorized person to any document or property that is or should be kept in it, and

(e) make any other order that is appropriate in the circumstances to carry out the purposes of this Act

to the extent that access has been or may be expected to be refused and that the document or property is or may be expected to be kept in the dwelling-house.

**46.2(1)** Notwithstanding any other provision of this Act, the Provincial Treasurer may, subject to subsection (2), for any purpose related to the administration or enforcement of this Act, by notice served personally or by registered or certified mail, require that any person provide, within the reasonable time that is stipulated in the notice,

(a) any information or additional information, including a return or a supplementary return, or

(b) any document.

(2) The Provincial Treasurer shall not impose on any person, in this section referred to as a “third party”, a requirement under subsection (1) to provide information or any document relating to 1 or more unnamed persons unless he first obtains the authorization of a judge under subsection (3).

(3) On ex parte application by the Provincial Treasurer, a judge may, subject to any conditions that he considers appropriate, authorize the Provincial Treasurer to impose on a third party a requirement under subsection (1) relating to an unnamed person or more than 1 unnamed person, in this section referred to as the “group”, if the judge is satisfied by information on oath that

(a) the person or group is ascertainable,

(b) the requirement is made to verify compliance by the person or persons in the group with any duty or obligation under this Act,

(c) it is reasonable to expect, based on any grounds, including information, statistical or otherwise, or past experience relating to the group or any other persons, that the person or any person in the group may have failed or may be likely to fail



force, any building, receptacle or place in Alberta for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or a regulation and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

(5) An application to the court under subsection (4) shall be supported by evidence on oath establishing the facts on which the application is based.

(6) The person from whom any documents, books, records, papers or things are seized pursuant to subsection (1)(d) or (4) is, at all reasonable times and subject to any reasonable conditions that may be determined by the Provincial Treasurer, entitled to inspect the seized documents, books, records, papers or things and to obtain copies thereof at his own expense.

(7) The Provincial Treasurer may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Treasury Department, to make any inquiry he considers necessary with reference to anything relating to the administration or enforcement of this Act.

(8) When the Provincial Treasurer, pursuant to subsection (7), authorizes a person to make an inquiry, the Minister shall forthwith apply to the court for an order appointing a hearing officer before whom the inquiry will be held.

(9) If any book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced or any officer of the Treasury Department may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Provincial Treasurer or a person thereunto authorized by the Provincial Treasurer to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

(10) No person shall hinder or molest or interfere with any person doing anything that he is authorized by or pursuant to this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by or pursuant to this section to do.

(11) Every person thereunto authorized by the Provincial Treasurer may administer or receive an oath, affirmation or statutory declaration required to be given by or pursuant to this section.

(12) For the purposes of an inquiry authorized under subsection (7), a hearing officer appointed under subsection (8) in relation thereto has all the powers and authorities conferred on a commissioner appointed under the Public Inquiries Act.

(13) A hearing officer appointed under subsection (8) in relation to an inquiry shall exercise the powers and authorities conferred on a commissioner appointed under the Public Inquiries Act in relation to those persons that the person authorized to make the inquiry considers appropriate for the conduct thereof but the hearing officer shall not exercise the powers to punish any person unless, on application by the hearing officer, the court certifies that those powers may be exercised in the matter disclosed in the application and the applicant has given to the person in respect of whom he proposes to exercise those powers 24 hours' notice of the hearing of the application or any shorter notice that the court considers reasonable.

(14) Any person who gives evidence in an inquiry authorized under subsection (7) is entitled to be represented by counsel and, on request made

to provide information that is sought pursuant to the requirement or to otherwise comply with this Act, and

(d) the information or document is not otherwise more readily available.

(4) If an authorization is granted under subsection (3), the authorization shall be served together with the notice referred to in subsection (1).

(5) If an authorization is granted under subsection (3), a third party on whom a notice is served under subsection (1) may, within 15 days after the service of the notice, apply to the judge who granted the authorization or, if the judge is unable to act, to another judge for a review of the authorization.

(6) On hearing an application under subsection (5), a judge may cancel the authorization previously granted if he is not then satisfied that the conditions in subsection (3)(a) to (d) have been met and he may confirm or vary the authorization if he is satisfied that those conditions have been met.

(7) If a person is found guilty of an offence under section 51 for failing to comply with a requirement under subsection (1), the court may make any order that it considers proper in order to enforce compliance with the requirement.

**46.3(1)** A judge may, on ex parte application by the Provincial Treasurer, issue a warrant in writing authorizing any person named in the warrant to enter and search any building, receptacle or place for any document or thing that may afford evidence as to the commission of an offence under this Act and to seize and, as soon as practicable, bring the document or thing before, or make a report in respect of it to, the judge or, if the judge is unable to act, another judge of the same court, to be dealt with by the judge in accordance with this section.

(2) An application under subsection (1) shall be supported by information on oath establishing the facts on which the application is based.

(3) A judge shall issue the warrant referred to in subsection (1) if he is satisfied that there are reasonable grounds to believe that

(a) an offence under this Act has been committed,

(b) a document or thing that may afford evidence of the commission of the offence is likely to be found, and

(c) the building, receptacle or place specified in the application is likely to contain such a document or thing.

(4) A warrant issued under subsection (1) shall refer to the offence for which it is issued and identify the building, receptacle or place to be searched and the person alleged to have committed the offence and shall be reasonably specific as to any document or thing to be searched for and seized.

(5) Any person who executes a warrant under subsection (1) may seize, in addition to the document or thing referred to in subsection (1), any other document or thing that he believes on reason-

*by him to the Provincial Treasurer, to receive a transcript of the evidence given by him.*

*(15) Any person whose affairs are investigated in the course of an inquiry authorized under subsection (7) is entitled to be present and to be represented by counsel throughout the inquiry unless the hearing officer appointed under subsection (8) in relation to the inquiry, on application by the Provincial Treasurer or a person giving evidence, orders otherwise in relation to the whole or any part of the inquiry on the ground that the presence of the person and his counsel, or either of them, would be prejudicial to the effective conduct of the inquiry.*

able grounds affords evidence of the commission of an offence under this Act and shall as soon as practicable bring the document or thing before, or make a report in respect of it to, the judge who issued the warrant or, if the judge is unable to act, another judge, to be dealt with by the judge in accordance with this section.

(6) Subject to subsection (7), if any document or thing seized under subsection (1) or (5) is brought before a judge or a report in respect of it is made to a judge, the judge shall, unless the Provincial Treasurer waives retention, order that it be retained by the Provincial Treasurer, who shall take reasonable care to ensure that it is preserved until the conclusion of any investigation into the offence in relation to which the document or thing was seized or until it is required to be produced for the purposes of a criminal proceeding.

(7) If any document or thing seized under subsection (1) or (5) is brought before a judge or a report in respect of it is made to a judge, the judge may, of his own motion or on summary application by a person with an interest in the document or thing, on 3 clear days' notice of application to the Deputy Attorney General, order that the document or thing be returned to the person from whom it was seized or the person who is otherwise legally entitled to it if the judge is satisfied that the document or thing

(a) will not be required for an investigation or a criminal proceeding, or

(b) was not seized in accordance with the warrant or this section.

(8) The person from whom any document or thing is seized pursuant to this section is entitled, at all reasonable times and subject to any reasonable conditions that may be imposed by the Provincial Treasurer, to inspect the document or thing and to obtain 1 copy of the document at the expense of the Provincial Treasurer.

**46.4(1)** The Provincial Treasurer may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Treasury Department, to make any inquiry that he may consider necessary with reference to anything relating to the administration or enforcement of this Act.

(2) If the Provincial Treasurer, pursuant to subsection (1), authorizes a person to make an inquiry, the Provincial Treasurer shall forthwith apply to the court for an order appointing a hearing officer before whom the inquiry will be held.

(3) For the purposes of an inquiry authorized under subsection (1), a hearing officer appointed under subsection (2) in relation to the inquiry has all the powers conferred on a commissioner appointed under the *Public Inquiries Act*.

(4) A hearing officer appointed under subsection (2) in relation to an inquiry shall exercise the powers conferred on a commissioner appointed under the *Public Inquiries Act* in relation to the



persons that the person authorized to make the inquiry considers appropriate for the conduct of the inquiry but the hearing officer shall not exercise the power to punish any person unless, on application by the hearing officer, a judge certifies that the power may be exercised in the matter disclosed in the application and the applicant has given to the person in respect of whom he proposes to exercise the power 24 hours' notice of the hearing of the application or any shorter notice that the judge considers reasonable.

(5) Any person who gives evidence in an inquiry authorized under subsection (1) is entitled to be represented by counsel and, on request made by him to the Provincial Treasurer, to receive a transcript of the evidence given by him.

(6) Any person whose affairs are investigated in the course of an inquiry authorized under subsection (1) is entitled to be present and to be represented by counsel throughout the inquiry unless the hearing officer appointed under subsection (2) in relation to the inquiry, on application by the Provincial Treasurer or a person giving evidence, orders otherwise in relation to the whole or any part of the inquiry on the ground that the presence of the person and his counsel, or either of them, would be prejudicial to the effective conduct of the inquiry.

**46.5(1)** If any document is seized, inspected, examined or provided under sections 46.1 to 46.4, the person by whom it is seized, inspected or examined or to whom it is provided or any officer of the Treasury Department may make, or cause to be made, 1 or more copies of it and any document purporting to be certified by the Provincial Treasurer or an authorized person to be a copy made pursuant to this section is evidence of the nature and contents of the original document and has the same probative force as the original document would have if it had been proven in the ordinary way.

(2) No person shall hinder, molest or interfere with any person doing anything that he is authorized by or pursuant to subsection (1) or sections 46.1 to 46.4 to do or prevent or attempt to prevent any person from doing any such thing and, notwithstanding any other Act or law, every person shall, unless he is unable to do so, do everything he is required to do by or pursuant to subsection (1) or sections 46.1 to 46.4.

*26 Section 51(2) is amended by striking out "46" and substituting "46.1 to 46.5 of this Act or section 232 of the federal Act as it applies under this Act".*

*27(1) Section 57(12) is repealed and the following is substituted:*

(12) For the purposes of this Act, the day of mailing of any notice or notification described in section 17(4), 28(1.2) or 42.2(1) or of any notice of assessment shall be presumed to be the date of that notice or notification.

*(2) Subsection (1) applies after October 28, 1985.*

**26** Section 51(2) presently reads:

*(2) Every person who contravenes section 18(1), 44, 45 or 46 is guilty of an offence and, in addition to any penalty otherwise provided, is liable to*

*(a) a fine of not less than \$200 and not more than \$10 000, or*

*(b) both the fine described in clause (a) and imprisonment for a term not exceeding 6 months.*

**27** Section 57(12) presently reads:

*(12) For the purposes of this Act, the day of mailing of any notice of assessment or notification described in section 17(4) shall, in the absence of any evidence to the contrary, be deemed to be the day appearing from that notice or notification to be the date thereof unless called in question by the Provincial Treasurer or by some person acting for him or Her Majesty.*

*28(1) Section 6(1)(a) of the Alberta Income Tax Amendment Act, 1984, chapter 5 of the Statutes of Alberta, 1984, is repealed and the following is substituted:*

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

**25(1)** If, at any time after the day on or before which a return is required to be filed under section 15 for a taxation year,

(a) the amount of tax payable for the year exceeds

(b) the aggregate of all amounts each of which is an amount paid at or before that time on account of tax payable and applied as at that time by the Provincial Treasurer against the taxpayer's liability for an amount payable for the year,

the person liable to pay the tax shall pay to the Provincial Treasurer interest at the rate prescribed for the purposes of subsection 161(1) of the federal Act on the excess computed for the period during which that excess is outstanding.

*(2) Subsection (1) applies after April 19, 1983.*



**28** Section 6(1)(a) of the Alberta Income Tax Amendment Act, 1984 presently reads:

*6(1) Section 25 is amended*

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

*25(1) If, at any time after the day on or before which a return is required to be filed under section 15 for a taxation year,*

*(a) the amount of tax payable for the year*

*exceeds*

*(b) the aggregate of all amounts each of which is an amount paid at or before that time on account of tax payable and applied as at that time by the Provincial Treasurer against the taxpayer's liability for an amount payable for the year,*

*the person liable to pay the tax shall pay interest on that excess for the period after April 19, 1983 during which it is outstanding at the rates per annum prescribed for the purposes of subsection 161(1) of the federal Act that are in effect from time to time during the period.*