

1988 BILL 44

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Third Session, 21st Legislature, 37 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 44**

**ALBERTA INCOME TAX AMENDMENT ACT, 1988**

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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 44

1988

### ALBERTA INCOME TAX AMENDMENT ACT, 1988

*(Assented to \_\_\_\_\_, 1988)*

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

- 1 *The Alberta Income Tax Act is amended by this Act.*
- 2 *Section 3(5) is repealed.*

*3(1) Section 3.04 is amended by repealing subsections (1) and (2) and substituting the following:*

**3.04(1)** The flat rate tax payable under this Act for a taxation year by an individual who resided in Alberta on the last day of the taxation year and had no income earned in the taxation year outside Alberta is an amount equal to

- (a) for the 1987 taxation year, 1%, and
- (b) for the 1988 and subsequent taxation years, 0.5%

of the taxable income of the individual.

(2) The flat rate tax payable under this Act for a taxation year by an individual

- (a) who resided in Alberta on the last day of the taxation year but had income earned in the taxation year outside Alberta, or
- (b) who did not reside in Alberta on the last day of the taxation year but had income earned in the taxation year in Alberta

is an amount equal to

- (c) for the 1987 taxation year, 1%, and
- (d) for the 1988 and subsequent taxation years, 0.5%

of the taxable income of the individual earned in the taxation year in Alberta.

*(2) Subsection (1) applies to 1988 and subsequent taxation years.*

## Explanatory Notes

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

**2** Section 3(5) presently reads:

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

**3** Section 3.04(1) and (2) presently read:

*3.04(1) The flat rate tax payable under this Act for a taxation year by an individual who resided in Alberta on the last day of the taxation year and had no income earned in the taxation year outside Alberta is an amount equal to 1% of the taxable income of the individual.*

*(2) The flat rate tax payable under this Act for a taxation year by an individual*

*(a) who resided in Alberta on the last day of the taxation year but had income earned in the taxation year outside Alberta, or*

*(b) who did not reside in Alberta on the last day of the taxation year but had income earned in the taxation year in Alberta*

*is an amount equal to 1% of the taxable income of the individual earned in the taxation year in Alberta.*

*4(1) Section 4(2) is amended*

*(a) in clause (f) by striking out “and subsequent taxation years” and substituting “taxation year”;*

*(b) by adding the following after clause (f):*

*(g) for the 1988 and subsequent taxation years, by an amount equal to the lesser of*

*(i) the tax otherwise payable for the taxation year, and*

*(ii) the amount, if any, by which \$430 exceeds  $\frac{1}{2}$  of the tax otherwise payable for the taxation year.*

*(2) Subsection (1) applies to 1988 and subsequent taxation years.*

**4** Section 4(2) presently reads:

*(2) The tax payable by an individual under section 3(1), (2), (2.1) or (2.2) or section 3.01 shall be reduced*

*(a) for the 1975 and 1976 taxation years, by an amount equal to the lesser of*

*(i) the tax payable under section 3(1), (2), (2.1) or (2.2) for the taxation year, and*

*(ii) \$80 minus 2% of the individual's taxable income for that year,*

*(b) for the 1977 taxation year, by an amount equal to the lesser of*

*(i) the tax payable under section 3(1), (2), (2.1) or (2.2) for the taxation year, and*

*(ii) the amount, if any, by which the aggregate of*

*(A) \$116, and*

*(B) the lesser of*

*(I) \$300, and*

*(II) the product of \$50 and the number of children under 18 years of age resident in Canada and claimed by the taxpayer as dependants with respect to that taxation year*

*exceeds 1/2 of the tax payable under section 3(1), (2), (2.1) or (2.2) for the taxation year;*

*(c) for the 1978 taxation year, by an amount equal to the lesser of*

*(i) the tax otherwise payable for the taxation year, and*

*(ii) the amount, if any, by which the aggregate of*

*(A) \$231, and*

*(B) the lesser of*

*(I) \$300, and*

*(II) the product of \$50 and the number of children under 18 years of age resident in Canada and claimed by the taxpayer as dependants with respect to that taxation year*

*exceeds the tax otherwise payable for the taxation year;*

*(d) for the 1979, 1980, 1981, 1982 and 1983 taxation years, by an amount equal to the lesser of*

*(i) the tax otherwise payable for the taxation year, and*

*(ii) the amount, if any, by which \$300 exceeds 1/2 of the tax otherwise payable for the taxation year;*

*(e) for the 1984, 1985 and 1986 taxation years, by an amount equal to the lesser of*

*(i) the tax otherwise payable for the taxation year, and*

*(ii) the amount, if any, by which \$340 exceeds 1/2 of the tax otherwise payable for the taxation year;*

*(f) for the 1987 and subsequent taxation years, by an amount equal to the lesser of*

*(i) the tax otherwise payable for the taxation year, and*

*(ii) the amount, if any, by which \$450 exceeds 1/2 of the tax otherwise payable for the taxation year.*

5(1) Section 8 is amended

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

**8(1)** When an amount is to be refunded to a mutual fund trust in respect of a taxation year pursuant to section 132 of the federal Act, the Provincial Treasurer shall, subject to subsection (2), at the time and in the manner provided in section 132 of the federal Act, refund to the mutual fund trust an amount, hereinafter referred to in this section as its "capital gains refund" for the year, equal to the aggregate of the amounts determined under subsections (1.1), (1.2) and (1.3).

(1.1) The amount in respect of the basic tax to be refunded to a mutual fund trust for a taxation year is equal to the proportion of the amount to be refunded for the year pursuant to section 132 of the federal Act that

(a) the percentage obtained by multiplying the percentage referred to in section 3(3) or 3.02(3) of this Act for the year by the percentage referred to in subsection 122(1) of the federal Act for the year,

is of

(b) the percentage referred to in subparagraph 132(4)(b)(i) of the federal Act for the year.

(1.2) The amount in respect of the surtax to be refunded to a mutual fund trust for a taxation year is equal to the product obtained when the amount determined under subsection (1.1) for the year is multiplied by the rate specified in section 3.03 for the year.

(1.3) The amount in respect of the flat rate tax to be refunded to a mutual fund trust for a taxation year is equal to the lesser of

(a) the trust's refundable flat rate capital gains tax on hand at the end of the year, and

(b) for the

(i) 1987 taxation year, 0.5% of the trust's flat rate capital gains redemptions for the year, and

(ii) 1988 and subsequent taxation years, 0.25% of the trust's flat rate capital gains redemptions for the year.

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

(4) In this section,

(a) "flat rate capital gains redemptions" of a mutual fund trust for a taxation year means that proportion of

(i) the aggregate of

(A) the product obtained when,

(I) for the 1987 taxation year,  $100/0.5$ , or

(II) for the 1988 and subsequent taxation years,  $100/0.25$

is multiplied by the trust's refundable flat rate capital gains tax on hand at the end of the year, and

**5** Section 8(1) and (4) presently read:

*8(1) When an amount is to be refunded to a mutual fund trust in respect of a taxation year, pursuant to section 132 of the federal Act, the Provincial Treasurer shall, subject to subsection (2), at the time and in the manner provided in section 132 of the federal Act, refund to the mutual fund trust an amount (hereinafter referred to in this section as its "capital gains refund" for the year) equal to that proportion of the amount of the refund for the year calculated under subsection 132(1) of the federal Act that*

*(a) the percentage obtained by multiplying the percentage referred to in section 3(3) or 3.02(3) of this Act for the year times the percentage referred to in subsection 122(1) of the federal Act for the year*

*is of*

*(b) the percentage referred to in subparagraph 132(4)(b)(i) of the federal Act for the year.*

*(4) In this section,*

*(a) "income earned in the taxation year in Alberta" has the same meaning as in section 3;*

*(b) "income earned in the taxation year outside Alberta" has the same meaning as in section 3;*

*(c) "income for the year" has the same meaning as in section 3;*

*(d) "mutual fund trust" has the same meaning as in section 132 of the federal Act.*

(B) the amount, if any, by which the aggregate of the fair market value at the end of the year of all of the issued units of the trust and all amounts each of which is the amount of any debt owing by the trust, or of any other obligation of the trust to pay an amount, that was outstanding at that time exceeds the aggregate of the cost amounts to it at that time of all of its properties and the amount of any money of the trust on hand at that time,

that

(ii) the aggregate of amounts paid by it in the year on the redemption of units of the trust,

is of

(iii) the aggregate of the fair market value at the end of the year of all of the issued units of the trust and the amount determined under subclause (ii) in respect of the trust for the year;

(b) "income earned in the taxation year in Alberta" has the same meaning as in section 3;

(c) "income earned in the taxation year outside Alberta" has the same meaning as in section 3;

(d) "income for the year" has the same meaning as in section 3;

(e) "mutual fund trust" has the same meaning as in section 132 of the federal Act;

(f) "refundable flat rate capital gains tax on hand" of a mutual fund trust at the end of a taxation year means the amount, if any, by which

(i) the aggregate of amounts each of which is an amount in respect of that or any previous taxation year throughout which it was a mutual fund trust, equal to

(A) for the 1987 taxation year, the lesser of 1% of its taxable income for the year and 1% of its taxed capital gains for the year, or

(B) for the 1988 and subsequent taxation years, the lesser of 0.5% of its taxable income for the year and 0.5% of its taxed capital gains for the year,

exceeds

(ii) the aggregate of amounts each of which is an amount in respect of any previous taxation year throughout which it was a mutual fund trust, equal to its flat rate tax refund determined under subsection (1.3) for the year;

(g) "taxed capital gains" has the same meaning as in section 132 of the federal Act.

*(2) Subsection (1) applies to 1987 and subsequent taxation years.*



*6(1) Section 11 is amended*

*(a) in subsection (1)(a)(iii) by striking out “subsection 69(9)” and substituting “subsection 69(6)”;*

*(b) in subsection (1)(a)(iv) by striking out “subsection 69(6)” and substituting “subsection 69(9)”;*

*(c) by repealing subsection (1.1);*

*(d) by repealing subsection (3.2)(a)(iii) and substituting the following:*

*(iii) the product obtained when*

*(A) for the 1987 taxation year, 1%, or*

*(B) for the 1988 and subsequent taxation years, 0.5%*

*is multiplied by the proportion of the sum of his attributed Canadian royalty income for the year and his attributed Canadian royalty income carry forward from the immediately preceding taxation year that his resource income earned in Alberta for the year as determined in accordance with Part XXVI of the federal regulations is of his total resource income for the year.*

*(2) Subsection (1)(a) and (b) apply to 1980 and subsequent taxation years.*

*(3) Subsection (1)(c) applies after February 13, 1986.*

*(4) Subsection (1)(d) applies to 1988 and subsequent taxation years.*

**6** Section 11(1)(a), (1.1) and (3.2) presently read:

*11(1) In this section,*

*(a) "attributed Canadian royalty income" of a taxpayer for a taxation year means the aggregate of*

*(i) the amounts required to be included in computing the taxpayer's income for the year by virtue of paragraph 12(1)(o) of the federal Act, when those amounts relate to the production from oil or gas wells or bituminous sands deposits, oil sands deposits or coal deposits or to any right, licence or privilege to explore for, drill for or recover petroleum or natural gas or to explore for, mine, quarry, remove, treat or process bituminous sands or oil sands or to win or work mines, seams or beds of coal,*

*(ii) the amounts in respect of which no deduction is allowed in computing the taxpayer's income for the year by virtue of paragraph 18(1)(m) of the federal Act, other than an amount described in paragraph 66.2(5)(a) or 66.4(5)(a) of the federal Act, when those amounts relate to the production from oil or gas wells or bituminous sands deposits, oil sands deposits or coal deposits or to any right, licence or privilege to explore for, drill for or recover petroleum or natural gas or to explore for, mine, quarry, remove, treat or process bituminous sands or oil sands or to win or work mines, seams or beds of coal,*

*(iii) any amounts by which the fair market value (as determined under subsection 69(8) of the federal Act) of petroleum, natural gas or coal disposed of under dispositions referred to in subsection 69(9) of the federal Act, exceeds the proceeds of disposition, if any, actually received by him in respect of the petroleum, natural gas or coal so disposed of, and*

*(iv) any amounts by which the amount referred to in subsection 69(7) of the federal Act in respect of acquisitions of petroleum, natural gas or coal referred to in that subsection exceeds the fair market value (as determined under subsection 69(6) of the federal Act) of the petroleum, natural gas or coal so acquired,*

*less the aggregate of*

*(v) the amount allowed to the taxpayer for the year under paragraph 20(1)(v.1) of the federal Act in respect of oil or gas wells or bituminous sands deposits, oil sands deposits or coal deposits, and*

*(vi) the amount of any reimbursement received by the taxpayer under the terms of a contract, when the reimbursement was for an amount paid or payable by the taxpayer that is required to be included in computing his income or denied as a deduction in computing his income by virtue of paragraph 12(1)(o) or 18(1)(m) of the federal Act in respect of oil or gas wells or bituminous sands deposits, oil sands deposits or coal deposits;*

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

*(3.2) For the 1987 and subsequent taxation years, an individual is entitled, subject to this section and the regulations, to a royalty tax rebate in respect of a taxation year in an amount equal to the lesser of*

*(a) the aggregate of*

*(i) the product obtained when the proportion of the sum of his attributed Canadian royalty income for the year and his attributed*

*7(1) Section 18(1) is amended by striking out “or” at the end of clause (o), by adding “or” at the end of clause (p) and by adding the following after clause (p):*

*(q) an amount as a distribution to one or more persons out of or under a retirement compensation arrangement,*

*(2) Subsection (1) applies with respect to amounts paid after March 27, 1987.*

*8(1) Section 24 is amended by striking out “sections 159 and 160” and substituting “sections 159, 160 and 160.2”.*

*(2) Section 24, as amended by subsection (1), is amended by striking out “sections 159, 160 and 160.2” and substituting “sections 159, 160, 160.2 and 160.3”.*

*(3) Subsection (1) applies in respect of deaths occurring after November 16, 1978.*

*(4) Subsection (2) applies after October 8, 1986.*

Canadian royalty income carry forward from the immediately preceding taxation year that

(A) his resource income earned in Alberta for the year as determined in accordance with Part XXVI of the federal regulations

is of

(B) his total resource income for the year

is multiplied by 46.5% of his federal basic tax rate for the year.

(ii) the amount, if any, by which

(A) the amount determined under section 3.03

exceeds

(B) 8% of the amount, if any, by which

(I) the amount, if any, by which the amount determined under section 3.02 exceeds the amount determined under subclause (i),

exceeds

(II) \$3500,

and

(iii) the product obtained when 1% is multiplied by the proportion of the sum of his attributed Canadian royalty income for the year and his attributed Canadian royalty income carry forward from the immediately preceding taxation year that

(A) his resource income earned in Alberta for the year as determined in accordance with Part XXVI of the federal regulations

is of

(B) his total resource income for the year.

and

(b) his tax otherwise payable under this Act for the year.

**7** Section 18(1) presently reads in part:

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,

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

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.

**8** Section 24 presently reads:

24 Subsections 70(2) and 104(2), paragraph 104(23)(e) and sections 159 and 160 of the federal Act apply, with all necessary modifications, in respect of the payment of tax under this Act for a taxation year by a taxpayer subject to tax under this Act to whom those provisions apply in respect of tax payable under the federal Act for the same taxation year.

9(1) Section 25 is amended by adding the following after subsection (2.1):

(2.2) Notwithstanding subsections (1) and (2), the total amount of interest payable by a taxpayer, other than a testamentary trust, under those subsections for the period commencing on the first day of the taxation year for which a part or instalment of tax is payable and ending on April 30 in the taxation year immediately following the year in respect of the tax or instalments of tax payable for the year shall not exceed the amount, if any, by which

(a) the total amount of interest that would be payable for the period by the taxpayer under subsections (1) and (2) in respect of his tax and instalments of tax payable for the year if no amount were paid on account of the tax or instalments

exceeds

(b) the amount of interest that would be payable under section 28(3) to the taxpayer in respect of the period on the amount that would be refunded to the taxpayer in respect of the year or applied to another liability if no tax were payable by the taxpayer for the year, no amount had been remitted to the Provincial Treasurer on account of the taxpayer's tax for the year under section 18 and the latest of the days described in section 28(3)(a) and (b) were the first day of the year.

(2) Subsection (1) applies to 1987 and subsequent taxation years.

10(1) Section 28 is amended by adding the following after subsection (8):

(9) For the purpose of determining an overpayment of a taxpayer that arises by virtue of the taxpayer's entitlement to a renter assistance credit under section 10 or a royalty tax credit under section 12 for the 1983 taxation year, the following rules apply:

(a) the references in sections 17(4)(a)(ii) and (c) and subsection (1) of this section to "within 3 years" shall be deemed to be references to "within 4 years";

(b) the reference in subsection (1) of this section to "3-year period" shall be deemed to be a reference to "4-year period".

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

11(1) Section 41 is amended

(a) by adding the following after subsection (1.2):

(1.3) Notwithstanding any other provision of this Act, any other Act or any law, if the Provincial Treasurer has knowledge or suspects that a particular person is or will become, within 90 days, liable to make a payment

(a) to another person who is liable to pay an amount assessed under section 44(8) or to a legal representative of that other person, each of whom is in this subsection referred to as the "tax debtor", or

**9** Section 25(1) and (2) presently read:

*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) 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 rate prescribed for the purpose of subsection 161(2) of the federal Act 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 which he is required to pay interest on it under subsection (1), whichever is earlier.*

**10** Section 28(1) presently reads:

*28(1) When the return required to be filed by a taxpayer for a taxation year is made within 3 years from the end of the year, the Provincial Treasurer*

*(a) may, on or after mailing the notice of assessment for the year, refund, without application therefor, any overpayment for the year, 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 6-year period referred to in section 17(4)(b), where that clause applies, and*

*(ii) in any other case, the 3-year period referred to in section 17(4)(c).*

**11** Section 41(4), (5) and (6) presently read:

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

*(5) When the person who is or is about to become indebted or liable carries on business under a name or style other than his own name, the registered or other letter under subsection (1) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.*

(b) to a secured creditor who has a right to receive the payment that, but for a security interest in favour of the secured creditor, would be payable to the tax debtor,

the Provincial Treasurer may, by registered letter or by a letter served personally, require the particular person to pay forthwith, where the money is immediately payable, and in any other case, as and when the money becomes payable, the money otherwise payable to the tax debtor or the secured creditor in whole or in part to the Provincial Treasurer on account of the tax debtor's liability under section 44(8).

(1.4) In subsection (1.3),

(a) "secured creditor" means a person who has a security interest in the property of another person or who acts for or on behalf of that person with respect to the security interest and includes a trustee appointed under a trust deed relating to a security interest, a receiver or receiver-manager appointed by a secured creditor or by a court on the application of a secured creditor, a sequestrator, or any other person performing a similar function;

(b) "security interest" means any interest in property that secures payment or performance of an obligation and includes an interest created by or arising out of a debenture, mortgage, hypothec, lien, pledge, charge, deemed or actual trust, assignment or encumbrance of any kind whatever, however or whenever arising, created, deemed to arise or otherwise provided for.

*(b) in subsection (4) by striking out "subsection (1.1)" wherever it occurs and substituting "subsection (1.1), (1.3)";*

*(c) by repealing subsections (5) and (6) and substituting the following:*

(5) When the person who is or is about to become indebted or liable under this section carries on business under a name or style other than his own name, the registered or other letter under subsections (1.1) and (1.3) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(6) When the persons who are or are about to become indebted or liable under this section carry on business in partnership, the registered or other letter under subsections (1.1) and (1.3) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

*(2) Subsection (1) applies to assessments in respect of amounts that are deducted or withheld after December 17, 1987.*

*(6) When the persons who are or are about to become indebted or liable carry on business in partnership, the registered or other letter under subsection (1) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.*

*12(1) Section 44(6)(d) is repealed and the following is substituted:*

(d) the fifteenth day of the month immediately following the month in which the amount should have been so deducted or withheld or such earlier time as may be prescribed by federal regulation for the purposes of subsection 153(1) of the federal Act.

*(2) Subsection (1) applies with respect to amounts required to be deducted or withheld after 1987.*

*13 Section 54(1) is repealed and the following is substituted:*

**54(1)** Every person engaged or employed or formerly engaged or employed in the administration of this Act who

(a) knowingly communicates information obtained by or on behalf of the Provincial Treasurer for the purposes of this Act or knowingly allows it to be communicated to a person not legally entitled to the information,

(b) knowingly allows a person who is not legally entitled to do so to inspect or have access to any book, record, writing, return or other document obtained by or on behalf of the Provincial Treasurer for the purposes of this Act, or

(c) knowingly uses, other than in the course of his duties in connection with the administration or enforcement of this Act, any information obtained by or on behalf of the Provincial Treasurer for the purposes of this Act,

is guilty of an offence and liable to a fine of not more than \$200.

**12** Section 44(6) presently reads:

*(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 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.*

**13** Section 54(1) presently reads:

*54(1) Every person who, while employed in the administration of this Act, communicates or allows to be communicated to a person not legally entitled thereto any information obtained under this Act or allows any such person to inspect or have access to any written statement furnished under this Act is guilty of an offence and liable to a fine not exceeding \$200.*