

1990 BILL 25

Second Session, 22nd Legislature, 39 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 25

ALBERTA INCOME TAX AMENDMENT ACT, 1990

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 25

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1990

ALBERTA INCOME TAX AMENDMENT ACT, 1990

(Assented to _____, 1990)

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 1 is amended

(a) by repealing subsection (3.1) and substituting the following:

(3.1) Subsection 248(11) of the federal Act applies for the purposes of this Act.

(b) by adding the following after subsection (5):

(6) If the Provincial Treasurer or the Minister is entitled under this Act or the federal Act to reassess or make an additional assessment or assess tax, interest or penalties, he may also determine the entitlement to and the amount, if any, of refundable tax credits as the circumstances require and any limitations on that reassessment, additional assessment or assessment apply to the determination.

(7) When a provision of the federal Act or a regulation made under the federal Act has, by this Act, been made applicable for the purposes of this Act,

(a) and reference is made in that provision to another provision of the federal Act and that other provision does not apply for the purposes of this Act because a provision of this Act applies in lieu of it, then the reference to the

Explanatory Notes

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

2 Section 1(3.1) presently reads:

(3.1) Interest computed at the applicable rate under any of sections 23.1(1), 25(1), (2) or (11), 28(3) to (4) or 44(6) or (7) shall be compounded daily, and, if interest is computed on an amount under any of those provisions and is unpaid on the day it would, but for this subsection, have ceased to be computed under that provision, interest at the applicable rate for that provision shall be computed and compounded daily on the unpaid interest from that day to the day it is paid.

other provision is deemed to be a reference to the provision of this Act that applies in lieu of it;

(b) and reference is made in that provision to another provision of the federal Act and that other provision applies in a different manner for the purposes of the federal Act than it does for the purposes of this Act, then the reference is deemed to be a reference to the other provision as it applies for the purposes of this Act;

(c) a reference in that provision to tax under Part I of the federal Act shall be read as a reference to tax under this Act;

(d) where that provision contains a reference to tax under any of Parts I.1 to XIV of the federal Act, it shall be read without reference to tax under any of those Parts and without reference to any portion of the provision that applies only to or in respect of tax under any of those Parts;

(e) where that provision contains a reference to any of Parts I.1 to XIV of the federal Act or to a provision in any of those Parts, it shall be read

(i) without reference to that Part or provision, as the case may be, and

(ii) without reference to any portion of it that applies only because of the application of any of those Parts or a provision in any of those Parts;

(f) a reference in that provision to a federal regulation that applies for the purposes of this Act shall be read as a reference to the regulation as it applies for the purposes of this Act.

(8) If a provision of the federal Act that is made applicable by this Act refers to an assessment, reassessment, determination or decision, the assessment, reassessment, determination or decision may be made by the Provincial Treasurer in respect of a matter under this Act.

(9) If a provision of the federal Act that is made applicable by this Act refers to giving a notice or making an application to the Minister of National Revenue, the notice or application may be given or made to the Provincial Treasurer in respect of a matter under this Act.

(10) If a provision of the federal Act that is made applicable by this Act refers to an application's being made to the Federal Court, the application shall be made to the Court of Queen's Bench in respect of a matter under this Act.

(11) If in a provision of the federal Act that is made applicable by this Act something may be done by the Minister of National Revenue, it may be done by the Provincial Treasurer.

(12) In this Act, a reference to the federal Act shall be construed as a reference to the federal Act as amended from time to time, before or after the commencement of the provision of this Act in which the reference occurs.

3(1) Section 3(6)(b)(ii)(C)(II) is amended by striking out "or section 110.1".

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

3 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 country exceeds the sum of

(i) the amount claimed for that year

(A) under subsection 126(1) of the federal Act as a deduction under that Act, or

(B) under section 127.5 of the federal Act in respect of that part of his special foreign tax credit that relates to the amount he would have claimed under subsection 126(1) of the federal Act if section 127.5 of the federal Act were not applicable to him,

(i.1) that proportion of the amount claimed for that year under subsection 180.1(1.1) of the federal Act that his foreign tax credit under subsection 126(1) of the federal Act is of his total deductions under section 126 of the federal 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 in section 3.02 used in computing the tax payable under this Act for that year,

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 or in respect of which an amount was deducted by him under section 110.6 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,

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

(E) if he deducted an amount under subsection 122.3(1) of the federal Act from his tax otherwise payable under Part I of the federal Act, 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,

is of

(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 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

4(1) Section 11(1)(b) is repealed and the following is substituted:

(b) “federal basic tax rate” of a taxpayer for a taxation year means

(i) in a taxation year when his tax payable under the federal Act is the tax payable under section 127.5 of the federal Act for the year determined without reference to section 120.1 of the federal Act, the proportion that that tax payable is of his adjusted taxable income determined under section 127.52 of the federal Act for the year less his basic exemption determined under section 127.53 of the federal Act, expressed as a percentage, or

(ii) in a taxation year that is not referred to in subclause (i), the proportion that his tax payable under the federal Act for the year determined without reference to section 120.1 of the federal Act is of his taxable income for the year, expressed as a percentage;

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

5(1) Section 12.1 is amended

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

12.1(1) In this section,

(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) or section 110.6 of the federal Act, or

(II) deductible by the taxpayer under paragraph 110(1)(d), (d.1), (d.2), (d.3), (f) or (j) 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.

(6.1) For the purposes of subsection (6), "tax payable" and "tax otherwise payable" mean the amount that would, but for sections 120.1, 121 and 122.3 of the federal Act, be the tax otherwise payable under this Act.

4 Section 11(1)(b) presently reads:

11(1) In this section,

(b) "federal basic tax rate" of a taxpayer for a taxation year means the proportion that his tax payable under the federal Act for the year computed without reference to section 120.1 of the federal Act is of his taxable income for the year, expressed as a percentage;

5 Section 12.1 presently reads in part:

12.1(1) In this section,

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

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

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

less any amount that

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

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

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

and each of which is or is in respect of a royalty receivable by or payable to the Crown in right of Alberta under a lease, licence, reservation or permit granting petroleum rights, natural gas rights or petroleum and natural gas rights;

(b) "weighted average rate" means the weighted average rate determined by the regulations.

(b) in subsection (3) by striking out "and" at the end of clause (c) and by repealing clause (d) and substituting the following:

(d) for the 1988 and 1989 taxation years, 75%, and

(e) for the 1990, 1991, 1992, 1993 and 1994 taxation years, the weighted average rate.

(c) in subsection (4),

(i) in clause (c) by striking out "and subsequent" and substituting ", 1988 and 1989";

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

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

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

less any amount that

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

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

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

and each of which is or is in respect of a royalty receivable by or payable to the Crown in right of Alberta under a lease, licence, reservation or permit granting petroleum rights, natural gas rights or petroleum and natural gas rights.

(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%,

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

(c) for the 1987 taxation year, 95%, and

(d) for the 1988 and subsequent taxation years, 75%.

(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,

(b) for the 1984 and 1985 taxation years, the lesser of

(i) \$2 000 000, and

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

(d) for the 1990, 1991, 1992, 1993 and 1994 taxation years, the lesser of

(i) the product of \$2 500 000 and the weighted average rate, and

(ii) that proportion of the amount calculated under subclause (i) that the number of days in the taxation year bears to 365.

(d) in subsection (6), by striking out “and” at the end of clause (c), by adding “and” at the end of clause (d) and by adding the following after clause (d):

(e) in a 1990 taxation year, if the fiscal period of the business or partnership commenced in 1989, 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, 1990 shall be 75%.

(e) in subsection (7)

(i) in clause (c) by striking out “and subsequent” and substituting “, 1988 and 1989”;

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

(d) for the 1990, 1991, 1992, 1993 and 1994 taxation years, the amount calculated under subsection (4)(d).

(f) by repealing subsection 12(b) and substituting the following:

(b) after the return has been filed but not later than the earlier of

(i) the day that is 90 days after the date of mailing of a notice of assessment, reassessment, determination or redetermination, as the case may be, or

(ii) the day that is 3 years after the end of that taxation year.

- (ii) that proportion of \$2 000 000 that the number of days in the taxation year bears to 365, and
- (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.
- (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%,
- (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%,
- (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 before April 1, 1986 shall be 50%, and
- (d) in a 1988 taxation year, if the fiscal period of the business or partnership commenced in 1987, 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, 1988 shall be 95%.
- (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,
- (b) for the 1984 and 1985 taxation years, \$2 000 000, and

(2) Subsection (1)(a) to (e) apply to 1990 and subsequent taxation years.

(3) Subsection (1)(f) applies to royalty tax credits in respect of the 1984 and subsequent taxation years.

6 Section 15 is repealed and the following is substituted:

15 Section 150 of the federal Act applies for the purposes of this Act.

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

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

(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.

6 Section 15 presently reads:

15(1) A return for each taxation year in the case of a corporation and 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, 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, 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.

(2) Whether or not he is liable to pay tax under this Act for a taxation year and whether or not a return has been filed under subsection (1) or (3), every person shall, on demand by registered letter from the Provincial Treasurer, file, within the reasonable time that may be stipulated in the registered letter, with the Provincial Treasurer in the prescribed form and containing the

7 Sections 16 to 18 are repealed and the following is substituted:

16 Sections 151, 152 and 153 of the federal Act apply for the purposes of this Act.

17 Notwithstanding that more than 3 years has elapsed since the date of mailing a notice of an original assessment of tax, interest or penalties payable by a taxpayer for a taxation year, or a notification that no tax is payable by the taxpayer for the year, if a collection agreement is in effect and the tax payable under Part I of the federal Act by the taxpayer for the year is reassessed, the Provincial Treasurer shall reassess or make additional assessments or assess tax, interest or penalties under this Act, as the circumstances require, and determine the amount of the refundable tax credit, if any, to which the taxpayer is entitled for the year.

prescribed information a return for the taxation year designated in the letter.

(3) Every trustee in bankruptcy, assignee, liquidator, curator, receiver, trustee or committee and every agent or other person administering, managing, winding up, controlling or otherwise dealing with the property, business, estate or income of a person who has not filed a return for a taxation year as required by this section shall file a return in the prescribed form for that year in respect of that person.

(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.

7 Sections 16 to 18 presently read:

16 Every person required by section 15 to file a return shall in the return estimate the amount of tax payable.

17(1) The Provincial Treasurer shall, with all due dispatch, examine each return required to be filed under this Act and assess the tax for the taxation year and the interest and penalties, if any, payable and shall determine

(a) the amount of tax, if any, deemed by section 6 to have been paid on account of the tax under this Act for the year,

(b) the amount of the refund, if any, to which a trust or corporation is entitled pursuant to section 8 or 9 for the taxation year, and

(c) the amount of the refundable tax credit, if any, to which an individual is entitled for the year.

(1.1) Where the Provincial Treasurer ascertains the amount of a taxpayer's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership 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.

(1.2) The provisions of paragraphs 56(1)(l) and 60(o), Division I and Division J of the federal Act, as they relate to an assessment or reassessment and to assessing tax and reassessing tax, are applicable with all necessary modifications to a determination or redetermination and to determining and redetermining amounts under this Division, except that subsections (1) and (2) of this section are not applicable to determinations made under subsection (1.1) and, for greater certainty, an original determination of a taxpayer's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year may be made by the Provincial Treasurer only at the request of the taxpayer.

(1.3) For greater certainty, where the Provincial Treasurer makes a determination of the amount of a taxpayer's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year under this Act or, in the case of a corporation, under this Act or under the new Act, subject to the taxpayer's rights of objection and appeal in respect of the determination and subject to any redetermination by the Provincial Treasurer under this Act or, in the case of a corporation, under this Act or under the new Act, the determination is binding on both the Provincial Treasurer and the taxpayer for the purposes of calculating the taxable income of the taxpayer in any other year.

(2) After examination of a return, the Provincial Treasurer shall send a notice of assessment to the person by whom the return was filed.

(3) Liability for tax under this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

(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 3 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 6 years from the day referred to in clause (a)(ii),

(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 3 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 3 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).

(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.

(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 that is made after the expiration of 3 years from the day referred to in subsection (4)(a)(ii), any amount

(a) that was not included in his income for the purposes of an assessment of tax made before the expiration of 3 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 3 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.

(7) Where a taxpayer, other than a corporation to which subsection (7.1) applies, has filed for a particular taxation year the return required by section 15 and an amount is subsequently claimed by him or on his behalf for the year as

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

(c) a deduction 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,

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

(e) a deduction under subsection 120.2(2) of the federal Act in respect of his minimum tax for a subsequent taxation year, or

(f) a deduction by virtue of an election for a subsequent taxation year under paragraph 164(6)(c) or (d) of the federal Act by his legal representative

by filing with the Provincial Treasurer a prescribed form amending the return, on or before the day on which the taxpayer is, or would be if a tax under this Act were payable by him for that subsequent taxation year, required by section 15 to file a return for that subsequent taxation year, the Provincial Treasurer shall reassess the taxpayer's tax for any relevant taxation year, other than a taxation year preceding the particular taxation year, in order to take into account the deduction claimed.

(7.1) Where a corporation has filed for a particular taxation year the return required by section 15 and an amount is subsequently claimed by it for the year as a deduction by virtue of the application of section 111 of the federal Act in respect of a loss determined under the new Act for a subsequent taxation year by filing with the Provincial Treasurer a prescribed form amending the return, on or before the day on or before which the corporation is required by section 36 of the new Act to file a return of income for that subsequent taxation year, the Provincial Treasurer shall reassess the taxpayer's tax for any relevant taxation year (other than a taxation year preceding the particular taxation year) in order to take into account the deduction claimed.

(8) The Provincial Treasurer is not bound by a return or information supplied by or on behalf of a taxpayer and, in making an assessment, may, notwithstanding a return or information so supplied or if no return has been filed, assess the tax payable under this Act.

(9) An assessment shall, subject to being varied or vacated on an objection or appeal under this Act and subject to a reassessment, be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

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) a death benefit,
- (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),
- (o) one or more amounts to an individual who has elected for the year in prescribed form in respect of all such amounts,
- (p) an amount described in paragraph 115(2)(c.1) of the federal Act, or
- (q) an amount as a distribution to one or more persons out of or under a retirement compensation arrangement,

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.

(1.1) Where the Provincial Treasurer is satisfied that the deducting or withholding of the amount otherwise required to be deducted or withheld under subsection (1) from a payment would

8(1) Sections 19 to 25 are repealed and the following is substituted:

cause undue hardship, he may determine a lesser amount and that amount shall be deemed to be the amount determined under that subsection as the amount to be deducted or withheld from that payment.

(1.2) Where a taxpayer so elects in prescribed manner and prescribed form, the amount required to be deducted or withheld under subsection (1) from any payment to him shall be deemed to be the aggregate of

(a) the amount, if any, otherwise required to be deducted or withheld under that subsection from that payment, and

(b) the amount specified by the taxpayer in that election with respect to that payment or with respect to a class of payments that included that payment.

(1.3) For the purposes of subsection (1), where a trustee who is administering, managing, distributing, winding up, controlling or otherwise dealing with the property, business, estate or income of another person authorizes or otherwise causes a payment referred to in subsection (1) to be made on behalf of that other person, the trustee shall be deemed to be a person making the payment and the trustee and that other person shall be jointly and severally liable in respect of the amount required under subsection (1) to be deducted or withheld and to be remitted on account of the payment.

(1.4) In subsection (1.3), "trustee" includes a liquidator, receiver, receiver-manager, trustee in bankruptcy, assignee, executor, administrator, sequestrator or any other person performing a function similar to that performed by any of those persons.

(2) Where amounts have been deducted or withheld under this section or subsection 153(1) of the federal Act from the remuneration or other payments received by an individual in a taxation year, if the aggregate of the remuneration and other payments from which such amounts have been deducted or withheld and which he received in the year is equal to or greater than 75% of his income for the year, he shall, on or before April 30 in the next year, pay to the Provincial Treasurer the remainder of his tax for the year as estimated under section 16.

(3) When an amount has been deducted or withheld under subsection (1), it shall, for all the purposes of this Act, be deemed to have been received at that time by the person to whom the remuneration, benefit, payment, fees, commissions or other amounts were paid.

8 Sections 19 to 25 presently read:

19(1) Subsections 70(2) and 104(2), paragraph 104(23)(e) and sections 155, 156, 158, 159, 160, 160.1, 160.2, 160.3 and 161 except subsection (4) of the federal Act apply for the purposes of this Act.

(2) In the application of section 155 of the federal Act, the amount estimated under subparagraph 155(1)(a)(i) of the federal Act by the individual shall be determined as if the tax payable under the federal Act were computed under paragraph 120(4)(c) of the federal Act except that a reference to section 127.3 of the federal Act shall be added after the reference to section 127.2 of the federal Act in subparagraph 120(4)(c)(ii) of the federal Act.

(3) In the application of section 156 of the federal Act, the amount estimated under subparagraph 156(1)(a)(i) of the federal Act by the individual shall be determined as if the tax payable under the federal Act were computed under paragraph 120(4)(c) of the federal Act except that a reference to section 127.3 of the federal Act shall be added after the reference to section 127.2 of the federal Act in subparagraph 120(4)(c)(ii) of the federal Act.

(4) In applying subsection 160.1(1) of the federal Act, “refund” includes a refund that arises by reason of a provision of this Act

(a) that allows a taxpayer to deduct an amount from the tax payable under this Act, or

(b) that deems an amount to have been paid by a taxpayer as or on account of the tax payable under this Act by him.

(5) When no federal instalments are required by virtue of section 156.1 of the federal Act, the requirements for payment by instalments under this Act are not applicable and the individual shall pay, on or before April 30 in the year following the particular taxation year, his tax as estimated under this Act for that taxation year.

(6) In the application of section 155 of the federal Act to the 1986 taxation year, the amount estimated under subparagraph 155(1)(a)(i) of the federal Act by the individual shall be determined as if the tax payable under the federal Act were computed under paragraph 120(4)(c) of the federal Act without subparagraph (i) and as if a reference to section 127.3 of the federal Act were added after the reference to section 127.2 of the federal Act in subparagraph 120(4)(c)(ii) of the federal Act.

(7) In the application of section 156 of the federal Act to the 1986 taxation year, the amount estimated under subparagraph 156(1)(a)(i) of the federal Act by the individual shall be determined as if the tax payable under the federal Act were computed under paragraph 120(4)(c) of the federal Act without

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, 2/3 of

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

(1.1) In its application to the 1986 taxation year, subsection (1)(a)(i) shall be read as follows:

(i) the amount estimated by the individual to be the tax payable under this Act for the year computed without reference to section 127.3 and Division E.1 of the federal Act, or

(2) If a collection agreement is entered into, an individual to whom subsection (1) applies shall pay an amount under clause (a) thereof computed in respect of the same year as the amount is computed that he is liable to pay under paragraph 155(1)(a) of the federal Act.

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 computed without reference to section 127.3 of the federal Act, 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.

subparagraph (i) and as if a reference to section 127.3 of the federal Act were added after the reference to section 127.2 of the federal Act in subparagraph 120(4)(c)(ii) of the federal Act.

(8) If a collection agreement is entered into, for the purposes of subsection 161(2) of the federal Act as it applies under this Act, the taxpayer is deemed to have been liable to pay a part or instalment computed by reference to his tax for the same year as the year by reference to which the part or instalment that he is deemed for the purposes of the federal Act by subsection 161(4) of the federal Act to be liable to pay was computed.

(2) Subsection (1) applies after October 18, 1985.

(1.1) In its application to the 1986 taxation year, subsection (1)(a)(i) shall be read as follows:

(i) the amount estimated by the individual to be the tax payable under this Act for the year computed without reference to section 127.3 and Division E.1 of the federal Act, or

(2) If a collection agreement is entered into, an individual to whom subsection (1) applies shall pay an amount under clause (a) thereof computed in respect of the same year as the amount is computed that he is liable to pay under paragraph 156(1)(a) of the federal Act.

21 When no federal instalments are required by virtue of section 156.1 of the federal Act, the requirements for payment by instalments under sections 19 and 20 of this Act are not applicable and the individual shall pay to the Provincial Treasurer on or before April 30 in the year following the particular taxation year, his tax as estimated under section 16 for that taxation year.

22(1) Every corporation shall, during the 15-month period ending 3 months after the close of each taxation year, pay to the Provincial Treasurer

(a) either

(i) on or before the last day of each of the first 12 months in that period, an amount equal to 1/12 of its tax payable for that year as estimated by it, or

(ii) on or before the last day of each of the first 2 months in that period, an amount equal to 1/12 of its 2nd instalment base for the year, and on or before the last day of each of the next following 10 months in that period, an amount equal to 1/10 of the amount remaining after deducting the amount computed under this subclause in respect of the first 2 months in the period from its first instalment base for the year, or

(iii) on or before the last day of each of the first 12 months in that period, an amount equal to 1/12 of its first instalment base for the year,

and

(b) the remainder of the tax as estimated by it under section 16

(i) on or before the last day of the period, if an amount was deducted by virtue of section 125 of the federal Act in computing the tax payable under Part I of that Act by

the corporation for the year or for its immediately preceding taxation year, or

(ii) on or before the last day of the 14th month of the period, in any other case.

(2) If a collection agreement is entered into, a corporation shall pay an amount computed with reference to

(a) subsection (1)(a)(i), if the corporation pays an amount computed under subparagraph 157(1)(a)(i) of the federal Act,

(b) subsection (1)(a)(ii), if the corporation pays an amount under subparagraph 157(1)(a)(iii) of the federal Act, and

(c) subsection (1)(a)(iii), if the corporation pays an amount under subparagraph 157(1)(a)(ii) of the federal Act.

(3) If subsection 157(2) of the federal Act is applicable to a corporation and it makes payment pursuant thereto, the corporation shall, instead of paying the instalments required by subsection (1), pay to the Provincial Treasurer, at the end of the period referred to in subsection (1), the whole of the tax as estimated under section 16.

(4) For the purposes of this section, "taxable income earned in the year in Alberta" for a taxation year has the meaning given that expression in section 5(2).

(4.1) Subject to subsection (4.2), in this section "first instalment base" and "2nd instalment base" of a corporation for a taxation year have the meanings prescribed by federal regulation 5301.

(4.2) In the application of federal regulation 5301 a reference to tax payable under "Part I of the Act" shall be deemed to be a reference to tax payable under this Act.

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.

23.1(1) Where, at any time, the Provincial Treasurer determines that as a consequence of the operation of section 6, 8, 9, 10, 12 or 12.1, an amount has been refunded or paid to a taxpayer for a taxation year

(a) in excess of the amount to which he was entitled as a refund, or

(b) in excess of the amount of the refundable tax credit to which he was entitled,

the following rules apply:

(c) the excess shall be deemed to be an amount that became payable by the taxpayer on the day on which the amount was refunded or the refundable tax credit was paid, as the case may be, and

(d) the taxpayer shall pay interest at the rate prescribed for the purposes of subsection 161(1) of the federal Act on the excess from the day it became payable to the date of payment.

(2) The Provincial Treasurer may, at any time, assess a taxpayer in respect of an amount payable by him by virtue of subsection (1) and the provisions of this Act are applicable, with any necessary modifications, in respect of an assessment made under this section as though it had been made under section 17.

24 Subsections 70(2) and 104(2), paragraph 104(23)(e) and sections 159, 160, 160.2 and 160.3 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.

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.

(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.

(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.

(3) In addition to the interest payable under subsection (1), if a corporation that paid tax under section 22(3) had a taxable income for the taxation year of more than \$10 000, it shall, forthwith after assessment, pay an amount equal to 3% of the tax payable under this Act for the taxation year.

(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.

(5) For the purposes of subsection (2), when a corporation is required to pay a part or instalment of tax for a taxation year computed by reference to a method described in section 22(1), the corporation shall be deemed to have been liable to pay a part or instalment computed by reference to

(a) its tax payable for the year,

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

(c) its instalment base for the 2nd taxation year preceding the year and its instalment base for the immediately preceding taxation year.

(6) Notwithstanding subsection (4), if a collection agreement is entered into, for the purposes of subsection (2) the taxpayer shall be deemed to have been liable to pay a part or instalment computed by reference to his tax for the same year as the year by reference to which the part or instalment that he is deemed by subsection 161(4) of the federal Act to be liable to pay was computed.

(7) Notwithstanding anything in this section, no interest is payable in respect of the amount by which the tax payable by a person is increased by a payment made by the Canadian Wheat Board on a participation certificate previously issued to him until 30 days after the payment is made.

(8) If the income of a taxpayer for a taxation year, or part thereof, is from sources in another country and the taxpayer by reason of monetary or exchange restrictions imposed by the law of that country is unable to transfer it to Canada, the Provincial Treasurer, if he is satisfied that payment as required by this Act of the whole of the additional tax under this Act for the year reasonably attributable to income from sources in that country would impose extreme hardship on the taxpayer, may postpone the time for payment of the whole or a part of that additional tax for a period to be determined by the Provincial Treasurer but no postponement may be granted if any of the income from the year from sources in that country has been

(a) transferred to Canada,

(b) used by the taxpayer for any purpose whatsoever, other than payment of income tax to the government of that other country on income from sources therein, or

(c) disposed of by him,

and no interest is payable under this section in respect of that additional tax, or part thereof, during the period of postponement.

(8.1) Notwithstanding anything in this section, if the tax payable under this Act by a taxpayer for a taxation year is increased by reason of an adjustment of an income or profits tax payable by him to the government of a country other than Canada or to the government of a state, province or other political subdivision of a country other than Canada, no interest is payable in respect of that increase in tax payable for the period ending 90 days after the day on which the taxpayer is first notified of the amount of the adjustment.

(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) repealed 1986 c5 s13,

(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,

(iv.01) any amount deducted under subsection 126(2) of the federal Act in respect of an unused foreign tax credit, within the meaning assigned by paragraph 126(7)(e) of the federal Act, for a subsequent taxation year,

(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,

(iv.2) any amount deducted under subsection 120.2(2) of the federal Act in respect of his minimum tax 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 day that is the latest of

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

(ii) the day on which the taxpayer's or his legal representative's return for that subsequent taxation year was filed,

(iii) if an amended return of the taxpayer's income for the 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) or 28(8) of this Act, the 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.

(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.

(11) If a taxpayer is required by this Part to pay a penalty and fails to pay all or any part of it as required, he shall pay to the Provincial Treasurer interest at the rate prescribed for the

9 Sections 26 and 27 are repealed and the following is substituted:

26 Sections 162, 163 and 163.1 of the federal Act apply for the purposes of this Act.

purposes of subsection 161(11) of the federal Act on the amount he failed to pay computed,

(a) in the case of a penalty payable by virtue of section 26 or 27, from the day on or before which the taxpayer's return for the taxation year in respect of which the penalty is payable is, or would have been if tax under this Act were payable by him for the year, required to be filed to the day of payment, and

(b) in the case of a penalty payable by virtue of any other section of this Act, from the day of mailing of the notice of original assessment of the penalty to the day of payment.

9 Sections 26 and 27 presently read:

26(1) Every person who fails to file a return as and when required by section 15(1) is liable to a penalty equal to the aggregate of

(a) an amount equal to 5% of the tax that was unpaid when the return was required to be filed, and

(b) the product obtained when 1% of the tax that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding 12, in the period between the date on which the return was required to be filed and the date on which the return was filed.

(2) Every person who has failed to file a return as required by section 15(3) is liable to a penalty of \$10 for each day of default but not exceeding \$50.

(3) Every person who has failed to complete the information on a prescribed form as required by or pursuant to section 15 is, unless in the case of an individual the Provincial Treasurer has waived it, liable to a penalty

(a) of 1% of the tax payable under this Act but, whether he is taxable or not, not less than \$25 or more than \$100, or

(b) in the case of an individual, of any lesser amount the Provincial Treasurer has fixed in respect of the specific failure.

(4) If a collection agreement is entered into, the Minister may refrain from levying or may reduce a penalty provided in this section, if the person who is liable to that penalty is required to pay a penalty under section 162 of the federal Act.

27(1) Every person who, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or

10 Section 28 is repealed and the following is substituted:

28(1) Section 164 of the federal Act applies for the purposes of this Act.

(2) Where a collection agreement is in effect and by reason of a decision referred to in subsection 164(4.1) of the federal Act a repayment of tax, interest or penalties under the federal Act for a taxation year is made to a taxpayer or any security accepted under the federal Act for the tax, interest or penalties is surrendered to the taxpayer, subsection 164(4.1) of the federal Act applies to any overpayment of tax, interest or penalties under this Act for the year that arises by reason of the decision.

obligation imposed by or under this Act, has made or has participated in, assented to or acquiesced in the making of a statement or omission (in this subsection referred to as a "false statement") in a return, certificate, statement or answer (in this section referred to as a "return") filed or made in respect of a taxation year as required by or under this Act or the regulations, is liable to a penalty of 25% of the amount, if any, by which

(a) the tax for the year that would be payable by him under this Act if his taxable income for the year were computed by adding to the taxable income reported by him in his return for the year that portion of his understatement of income for the year that is reasonably attributable to the false statement

exceeds

(b) the tax for the year that would have been payable by him under this Act had his tax payable for the year been assessed on the basis of information provided in his return for the year.

(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.

(3) Every person who wilfully attempts to evade payment of the tax payable by him by failing to file a return of income as and when required by section 15(1) is liable to a penalty of 50% of the amount of tax sought to be evaded.

(4) If, in an appeal under this Act, a penalty assessed by the Provincial Treasurer under this section is in issue, the burden of establishing the facts justifying the assessment of the penalty is on the Provincial Treasurer.

10 Section 28 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).

(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.

(2) Instead of making a refund or repayment 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 refund or repayment to that other liability and notify the taxpayer of that action.

(3) If under this section an amount in respect of a taxation year is refunded or repaid to a taxpayer, 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.

(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 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;

(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.

(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 an amount 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:

(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.

(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.

(5) If a collection agreement is entered into and, by virtue of a decision referred to in subsection 164(4) of the federal Act, that subsection applies to any overpayment made under that Act in respect of tax payable by a taxpayer for a taxation year, subsection (4) of this section applies to any overpayment made under this Act in respect of the same year that arose by virtue of the same decision.

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

(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

(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) or applied under section 12.1(11).

(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) repealed 1986 c5 s15,

(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,

(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,

(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, or

(e.2) the deduction of an amount under subsection 120.2(2) of the federal Act in respect of his minimum tax for a subsequent taxation year,

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 or his legal representative'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) or 28(8) 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.

(7.1) For the purpose of computing interest under subsection (3), the portion of any overpayment of the tax payable by a corporation to which section 17(7.1) applies for a taxation year that arose as a consequence of the deduction of amounts by the application of section 111 of the federal Act, as made applicable for the purposes of this Act by section 1(1)(x) in respect of losses

for subsequent taxation years determined under the new Act, shall be deemed to have arisen on the later of

(a) the day on which its return for the year under section 36 of the new Act was filed for that subsequent taxation year, and

(b) the day on or before which the corporation is required to file its return under section 36 of the new Act for that subsequent taxation year.

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

(a) repealed 1986 c5 s15,

(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,

(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,

(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, or

(e.2) the deduction of an amount under subsection 120.2(2) of the federal Act in respect of his minimum tax 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,

11 Section 29 is repealed and the following is substituted:

29 Section 165 of the federal Act applies for the purposes of this Act.

(g) the day on which the taxpayer's or his legal representative'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) or 28(8) 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.

(8) When, in the course of administering the estate of a deceased taxpayer, the taxpayer's legal representative has, within the first taxation year of the estate, 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.

(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".

11 Section 29 presently reads:

29(1) A taxpayer who objects to an assessment under this Act may, within 90 days from the day of mailing of the notice of assessment, serve on the Provincial Treasurer a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the deputy head.

(3) On receipt of a notice of objection, the Provincial Treasurer shall,

12 Section 30(1) is amended

(a) by striking out “under section 29(1)” and substituting “under this Act”;

(b) by striking out “with section 29(3)” and substituting “with section 165 of the federal Act”.

(a) if the taxpayer indicates in the notice of objection that he wishes to appeal immediately to the court and that he waives reconsideration of the assessment and the Provincial Treasurer consents, file a copy of the notice of objection with the clerk of the court of the judicial district in which the taxpayer resides, or

(b) with all due dispatch, reconsider the assessment and vacate, confirm or vary the assessment or reassess,

and he shall thereupon notify the taxpayer of his action by registered mail.

(4) When the Provincial Treasurer files a copy of a notice of objection pursuant to subsection (3)(a), the Provincial Treasurer shall be deemed, for the purpose of section 30, to have confirmed the assessment to which the notice relates and the taxpayer who served the notice shall be deemed to have thereupon instituted an appeal in accordance with that section.

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

(6) When a taxpayer has served a notice of objection to an assessment in accordance with this section and thereafter the Provincial Treasurer reassesses the taxpayer's tax for the taxation year in respect of which the notice of objection was served or issues an additional assessment in respect thereof, and notifies the taxpayer of his action by registered mail, the taxpayer may, without serving a notice of objection to the reassessment or the additional assessment,

(a) appeal therefrom to the court in accordance with section 30, or

(b) if an appeal to the court has been instituted with respect to the assessment, amend the appeal by joining thereto an appeal in respect of the assessment or additional assessment in the manner and on the terms, if any, that the court directs.

12 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

13 Section 32(3) is repealed and the following is substituted:

(3) Subsection 171(1) of the federal Act applies for the purposes of this Act.

14 Sections 33 and 33.1 are repealed and the following is substituted:

33 Sections 166, 167, 179 and 179.1 of the federal Act apply for the purposes of this Act.

15 Section 35 is repealed.

(b) 90 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.

13 Section 32(3) presently reads:

(3) The court may dispose of the appeal by

(a) dismissing it,

(b) allowing it, or

(c) allowing it and

(i) vacating the assessment,

(ii) varying the assessment,

(iii) restoring the assessment, or

(iv) referring the assessment back to the Provincial Treasurer for reconsideration and reassessment.

14 Sections 33 and 33.1 presently read:

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.

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.

15 Section 35 presently reads:

35 An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory

16 Section 36 is repealed and the following is substituted:

36 Sections 220, 223, 224, 225, 225.1 and 225.2 of the federal Act apply for the purposes of this Act.

17 Section 39 is repealed.

provision of this Act or of the federal Act if the provision in that Act applies in respect of any action under this Act.

16 Section 36 presently reads:

36(1) The Provincial Treasurer shall administer and enforce this Act and control and supervise all persons employed to carry out or enforce this Act and the deputy head may exercise all the powers and perform the duties of the Provincial Treasurer under this Act.

(2) The Provincial Treasurer may at any time extend the time for making a return under this Act.

(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.

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

(4) Any person employed in connection with the administration or enforcement of this Act may, in the course of his employment,

(a) if he is designated by the Provincial Treasurer for the purpose, or

(b) where a collection agreement is entered into if he is a person designated by the Minister under the federal Act for the purposes of subsection 220(5) of that Act,

administer oaths and take and receive affidavits, declarations and affirmations for the purposes of or incidental to the administration or enforcement of this Act or the regulations, and every person so designated has for those purposes all the powers of a commissioner for oaths.

17 Section 39 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.

18 Section 41 is repealed.

(a), (b) repealed 1986 c5 s21.

(2) On production to the court or any other court of competent jurisdiction, a certificate made under this section shall be registered in that court and, when registered, has the same force and effect and all proceedings may be taken thereon as if the certificate were a judgment obtained in that court for a debt of the amount specified in the certificate plus interest to the day of payment as provided for in this Act.

(3) All reasonable costs and charges attendant on the registration of the certificate are recoverable in like manner as if they had been certified and the certificate had been registered under this section.

18 Section 41 presently reads:

41(1) In this section,

(a) "tax debtor" means a person who is or is about to become indebted or liable to make a payment under this Act;

(b) "institution" means a bank, credit union, trust company, treasury branch or other similar person.

(1.1) Where the Provincial Treasurer has knowledge or suspects that a person is or will be, within 90 days, indebted or liable to make any payment to a tax debtor, he may, by registered letter or by a letter served personally, require that person to pay the money otherwise payable to the tax debtor in whole or in part to the Provincial Treasurer on account of the tax debtor's liability under this Act.

(1.2) Notwithstanding subsection (1), if the Provincial Treasurer knows or suspects that within 90 days

(a) an institution will loan or advance money to, make a payment on behalf of or make a payment in respect of a negotiable instrument issued by a tax debtor who is indebted to the institution and who has granted security in respect of the indebtedness, or

(b) a person, other than an institution, will loan or advance money to or make a payment on behalf of a tax debtor who the Provincial Treasurer knows or suspects

(i) is employed by or is engaged in providing services or property to that person or was or will be, within 90 days, so employed or engaged, or

(ii) is not dealing at arm's length with that person, where that person is a corporation,

he may, by notice served personally or by certified mail or registered letter, require the institution or person, as the case may be, to pay to the Provincial Treasurer on account of the liability under this Act of the tax debtor the money, in whole or in part, that would otherwise be so loaned, advanced or paid, and any money so paid to the Provincial Treasurer shall be deemed to have been loaned, advanced or paid, as the case may be, to the tax debtor.

(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

(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.

(2) The receipt of the Provincial Treasurer for money paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

19 Sections 42, 42.1 and 42.2 are repealed.

(3) Where the Provincial Treasurer has, under this section, required a person to pay to the Provincial Treasurer on account of the liability under this Act of a tax debtor money otherwise payable by the person to the tax debtor as interest, rent, remuneration, a dividend, an annuity or other periodic payment, the requirement is applicable to all such payments to be made by the person to the tax debtor until the liability under this Act is satisfied and operates to require payments to the Provincial Treasurer out of each payment of an amount stipulated by the Provincial Treasurer in the registered letter or letter served personally.

(4) Every person who fails to comply with a requirement under subsection (1.1), (1.3) 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), (1.3) or (3), as the case may be, to pay to the Provincial Treasurer.

(4.1) A person or institution who fails to comply with a requirement under subsection (1.2) with respect to money to be loaned, advanced or paid is liable to pay to Her Majesty in right of Alberta an amount equal to the lesser of

(a) the aggregate of money so loaned, advanced or paid, and

(b) the amount that the institution or person was required under that subsection to pay to the Provincial Treasurer.

(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.

19 Sections 42, 42.1 and 42.2 presently read:

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) Property seized under this section shall be kept for 10 days at the cost and charges of the owner and, if he does not pay the amount due together with the costs and charges within 10 days, the property seized shall be sold by public auction.

(3) Except in the case of perishable goods, the Provincial Treasurer shall, a reasonable time before the goods are sold, publish at least once in one or more newspapers of general local circulation a notice of the sale setting forth the time and place thereof, together with a general description of the property to be sold.

(4) The Provincial Treasurer shall pay or return to the owner of the property seized any surplus resulting from the sale after deduction of the amount owing and all costs and charges.

(5) The goods and chattels of any person in default that would be exempt from seizure under a writ of execution issued out of the court are exempt from seizure under this section.

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 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.

20 *Section 43(2) is repealed and the following is substituted:*

(2) Subsection 226(2) of the federal Act applies for the purposes of this Act.

21 *Section 44 is repealed and the following is substituted:*

44(1) Section 227 of the federal Act applies for the purposes of this Act.

(2) The Provincial Treasurer may assess any person for any amount

(a) that has been deducted or withheld by that person under this Act or a regulation, and

(b) that is payable by that person under section 49(2) of this Act or subsection 224(4) or (4.1) or 227(8), (8.3) or (8.4), or section 227.1 of the federal Act as it applies for the purposes of this Act,

and, if the Provincial Treasurer sends a notice of assessment to that person, Divisions I and J of Part I of the federal Act apply for the purposes of this Act.

(3) The Provincial Treasurer may assess any person for any amount that is payable by that person under subsection 227(9), (9.2) or (9.4) of the federal Act as it applies for the purposes of this Act, and if the Provincial Treasurer sends a notice of assessment to that person, sections 150 to 167, except subsections 164(1.1) to (1.3), and Division J of Part I of the federal Act apply for the purposes of this Act.

(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).

20 Section 43(2) presently reads:

(2) If a person has failed to pay tax, interest or penalties demanded under this section as required, the Provincial Treasurer may direct that the goods and chattels of the taxpayer that are located in Alberta be seized and section 42(2) to (5) are applicable, with all necessary modifications.

21 Section 44 presently reads:

44(1) No action lies against a person for withholding or deducting any sum of money in compliance or intended compliance with this Act.

(2) Where a person is required by regulations made under section 18(1) to deduct or withhold from a payment to another person an amount on account of that other person's tax for the year, that other person shall, from time to time as prescribed, file a return with the person in prescribed form.

(3) Every person who fails to file a return as required by subsection (2) is liable to have the deduction or withholding under section 18 on account of his tax made as though he were an unmarried person without dependants.

(4) Every person who deducts or withholds any amount under this Act shall be deemed to hold the amount so deducted or withheld in trust for Her Majesty in right of Alberta.

(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.

(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 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.

(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 for the period commencing on the 15th day of the month immediately following the month in which the amount was deducted or withheld, 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 or section 44.1 or 49 and, on his sending a notice of assessment to that person, Divisions I and J of Part I of the federal Act apply, with all necessary modifications.

(9) Provisions of this Act requiring a person to deduct or withhold an amount in respect of taxes from amounts payable to a taxpayer apply to and bind Her Majesty in right of Alberta.

(10) When this Act requires an amount to be deducted or withheld, an agreement by the person on whom that obligation is imposed not to deduct or withhold is void.

22 *Section 44.1 is repealed and the following is substituted:*

44.1 Section 227.1 of the federal Act applies for the purposes of this Act.

(11) The receipt of the Provincial Treasurer for an amount withheld or deducted by any person as required by or under this Act is a good and sufficient discharge of the liability of any debtor to his creditor with respect thereto to the extent of the amount referred to in the receipt.

22 Section 44.1 presently reads:

44.1(1) If a corporation has failed to deduct or withhold an amount as required by section 18 or has failed to remit that amount, the directors of the corporation at the time the corporation was required to deduct or withhold the amount, or remit the amount, are jointly and severally liable, together with the corporation, to pay any amount that the corporation is liable to pay under this Act in respect of that amount, including any interest or penalties related to it.

(2) A director is not liable under subsection (1), unless

(a) a certificate for the amount of the corporation's liability referred to in that subsection has been registered in the court under section 39(2) and execution for that amount has been returned unsatisfied in whole or in part,

(b) the corporation has commenced liquidation or dissolution proceedings or has been dissolved and a claim for the amount of the corporation's liability referred to in that subsection has been proved within 6 months after the earlier of the date of commencement of the proceedings and the date of dissolution, or

(c) the corporation has made an assignment or a receiving order has been made against it under the Bankruptcy Act (Canada) and a claim for the amount of the corporation's liability referred to in that subsection has been proved within 6 months after the date of the assignment or receiving order.

(3) A director is not liable for a failure under subsection (1) where he exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances.

(4) No action or proceedings to recover any amount payable by a director under subsection (1) shall be commenced more than 2 years after he last ceased to be a director of that corporation.

(5) If execution referred to in subsection (2)(a) has issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

(6) If a director pays an amount in respect of a corporation's liability referred to in subsection (1) that is proved in liquidation, dissolution or bankruptcy proceedings, he is entitled to any

23 Section 45 is repealed and the following is substituted:

45 Section 230 of the federal Act applies for the purposes of this Act.

preference that Her Majesty would have been entitled to had that amount not been so paid and, where a certificate that relates to such amount has been registered, he is entitled to an assignment of the certificate to the extent of his payment, which assignment the Provincial Treasurer is hereby empowered to make.

(7) A director who has satisfied a claim under this section is entitled to contribution from the other directors who were liable for the claim.

23 Section 45 presently reads:

45(1) Every person carrying on business in Alberta and every person who is required, by or pursuant to this Act, to pay or collect taxes or other amounts shall keep records and books of account, including an annual inventory kept in the prescribed manner, at his place of business or residence in Canada or at some other place that may be designated by the Provincial Treasurer, in a form and containing the information that will enable the taxes payable under this Act or the taxes or other amounts that should have been deducted, withheld or collected to be determined.

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

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

(a) the records and books of account in respect of which a period is prescribed, together with every account and voucher necessary to verify the information in any record or book of account, for the prescribed period, and

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

(4) Where, in respect of any taxation year, a person referred to in subsection (1) has not filed a return with the Provincial Treasurer as and when required by section 15(1), that person shall retain every record and book of account that is required to be kept by this section and that relates to that taxation year, together with every account and voucher necessary to verify the information contained in the record and book of account, until the expiration of 6 years from the day the return for that taxation year is filed.

24 Sections 46 to 48 are repealed and the following is substituted:

46 Sections 231 to 231.5, 232, 233 and 236 of the federal Act apply for the purposes of this Act.

(5) *Where a person required by this section to keep records and books of account serves a notice of objection or is a party to an appeal under this Act, that person shall retain every record, book of account, account and voucher necessary for dealing with the objection or appeal until, in the case of the serving of a notice of objection, the time provided by section 30(1) to appeal has elapsed or, in the case of an appeal, until the appeal is disposed of and any further appeal is disposed of or the time for filing any further appeal has expired.*

(6) *Where the Provincial Treasurer is of the opinion that it is necessary for the administration of this Act, he may, by a demand served personally or by registered letter or certified mail, require any person required by this section to keep records and books of account to retain those records and books of account together with every account and voucher necessary to verify the information contained in the records and books of account, for any period specified in the demand.*

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

24 Sections 46 to 48 presently read:

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;*

(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),

(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 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 reasonable 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

25 Sections 49 to 52 are repealed and the following is substituted:

49(1) Sections 238 and 239 of the federal Act apply for the purposes of this Act.

(2) Every person who fails to comply with a regulation under section 37 is liable to a penalty of \$10 a day for each day of default but not exceeding in all \$2500.

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.

47(1) Section 232 of the federal Act applies, with all necessary modifications, for the purposes of this Act where, in the same or similar circumstances, that section is or would be applicable for the purposes of the federal Act.

(2) For the purposes of this section, a reference to the Deputy Attorney General of Alberta shall be substituted for any reference to the Deputy Attorney General of Canada in section 232 of the federal Act, but if a collection agreement is entered into, section 232 of the federal Act shall be read without such a reference being substituted.

48 Whether or not he has filed an information return as required by a regulation made under paragraph 221(1)(d) of the federal Act as it applies by virtue of section 37(2), every person shall, on demand from the Provincial Treasurer, served personally or by registered mail, file with the Provincial Treasurer, within the reasonable time that may be stipulated in the demand, the prescribed information return designated in the demand.

25 Sections 49 to 52 presently read:

49(1) Every person who fails to comply with a regulation made under paragraph 221(1)(d) or (e) of the federal Act as it applies by virtue of section 37(2) of this Act, is liable in respect of each failure to so comply to a penalty of \$10 a day for each day of default but not exceeding in all \$2500.

(2) Every person who fails to comply with a regulation made under section 37 or incorporated by reference by virtue of subsection (2) thereof is liable to a penalty of \$10 a day for each day of default but not exceeding in all \$2500.

50 A return, certificate or other document made by a corporation under this Act or the regulations shall be signed on its behalf by the president, secretary or treasurer of the corporation or by any other officer or person thereunto authorized by the board of directors or other governing body of the corporation.

51(1) Every person who fails to file a return as and when required by or under this Act or the regulations is guilty of an offence and, in addition to any penalty otherwise provided, is liable to a fine of not less than \$25 for each day of default.

(2) Every person who contravenes section 18(1), 44, 45 or 46.1 to 46.5 of this Act or section 232 of the federal Act as it applies under this Act 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.

(3) When a person is convicted under this section of failing to comply with a provision of this Act or the regulations, he is not liable to pay a penalty imposed under section 25, 44 or 49 for the same failure unless he was assessed for that penalty or that penalty was demanded from him before the information or complaint giving rise to the conviction was laid or made.

52 Every person who

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

(b) to evade payment of a tax imposed by this Act, destroys, alters, mutilates, secretes or otherwise disposes of the records or books of account of a taxpayer,

(c) makes or assents to or acquiesces in the making of false or deceptive entries or omits or assents to or acquiesces in the omission to enter a material particular in records or books of account of a taxpayer,

(d) wilfully, in any manner, evades or attempts to evade compliance with this Act or payment of taxes imposed by this Act, or

(e) conspires with any person to commit an offence described by clauses (a) to (d),

is guilty of an offence and, in addition to any penalty otherwise provided, is liable to

(f) a fine of not less than 25% and not more than double the amount of the tax that was sought to be evaded, or

26 Section 53 is amended by striking out “section 51 or 52 of this Act, as the case may be” and substituting “section 238 or 239 of the federal Act as they apply for the purposes of this Act”.

27 Section 55 is repealed and the following is substituted:

55 Section 242 of the federal Act applies for the purposes of this Act.

28 Section 57(1) to (14), (16) and (17) are repealed and the following is substituted:

57(1) Section 244 of the federal Act applies for the purposes of this Act.

(g) both the fine described in clause (f) and imprisonment for a term not exceeding 2 years.

26 Section 53 presently reads:

53 If a collection agreement is entered into and proceedings under section 238 or 239 of the federal Act are taken against any person, the Minister may take or refrain from any action against that person contemplated by section 51 or 52 of this Act, as the case may be.

27 Section 55 presently reads:

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

28 Section 57 presently reads:

57(1) An information or complaint under this Act may be laid or made by any officer of the Treasury Department, by a member of the Royal Canadian Mounted Police or by any person authorized by the Provincial Treasurer and, when an information or complaint purports to have been laid or made under this Act it shall be deemed to have been laid or made by a person authorized by the Provincial Treasurer and shall not be called in question for lack of authority of the informant or complainant except by the Provincial Treasurer or by some person acting for him or Her Majesty.

(2) An information or complaint in respect of an offence under this Act may be for one or more offences and no information, complaint, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to 2 or more offences.

(3) An information or complaint in respect of an offence under this Act may be laid or made

(a) on or before a day 5 years from the time when the matter of the information or complaint arose, or

(b) within one year from the day on which evidence, sufficient in the opinion of the Provincial Treasurer to justify a prosecution for the offence, came to his knowledge, and the Provincial Treasurer's certificate as to the day on which that evidence came to his knowledge is conclusive proof thereof.

(4) When, by this Act or a regulation, provision is made for sending by mail a request for information, notice or demand, an affidavit of an officer of the Treasury Department setting out

- (a) that he has knowledge of the facts in the particular case,*
- (b) that such a request, notice or demand was sent by registered letter on a named day to the person to whom it was addressed, indicating that address, and*
- (c) that he identifies as exhibits attached to the affidavit the post office certificate of registration of the letter or a true copy of the relevant portion thereof and a true copy of the request, notice or demand,*

shall be admitted in evidence as prima facie proof of the sending and of the request, notice or demand.

(5) When, by this Act or a regulation, a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Treasury Department, setting out

- (a) that he has charge of the appropriate records, and*
- (b) that after a careful examination and search of the records he has been unable to find in a given case that the return, statement, answer or certificate, as the case may be, has been made by that person,*

shall be admitted in evidence as prima facie proof that in the case that person did not make the return, statement, answer or certificate, as the case may be.

(6) When, by this Act or a regulation, a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Treasury Department setting out

- (a) that he has charge of the appropriate records, and*
- (b) that after careful examination of those records he has found that the return, statement, answer or certificate was filed or made on a particular day,*

shall be admitted in evidence as prima facie proof that it was filed or made on that day and not prior thereto.

(7) An affidavit of an officer of the Treasury Department setting out that he has charge of the appropriate records and that a document annexed thereto is a document or true copy of a document made by or on behalf of the Provincial Treasurer or some person exercising the powers of the Provincial Treasurer or

by or on behalf of a taxpayer, is prima facie proof of the nature and contents of the document and is admissible in evidence and has the same probative force as the original would have if it had been proven in the ordinary way.

(8) An affidavit of an officer of the Treasury Department setting out

(a) that he has charge of the appropriate records and has knowledge of the practice of the Department,

(b) that an examination of the records shows that a notice of assessment for a particular taxation year was mailed or otherwise communicated to a taxpayer on a particular day pursuant to this Act, and

(c) that after careful examination and search of the records he has been unable to find that a notice of objection or of appeal from the assessment was received within the time allowed therefor,

shall be admitted in evidence as prima facie proof of the statements contained therein.

(9) When evidence is offered under this section by an affidavit from which it appears that the person making the affidavit is an officer of the Treasury Department, it is not necessary to prove his signature or that he is such an officer nor is it necessary to prove the signature or official character of the person before whom the affidavit was sworn.

(10) Judicial notice shall be taken of

(a) all orders or regulations made under this Act, and

(b) a collection agreement entered into under this Act or any agreement for the collection by Canada of the tax imposed under the income tax statute of an agreeing province

without the orders, regulations or agreements being specially pleaded or proven.

(11) Every document purporting to be an order, direction, demand, notice, certificate, requirement, decision, assessment, discharge of mortgage or other document purporting to have been executed under, or in the course of administration or enforcement of, this Act over the name in writing of the Provincial Treasurer, his deputy, or an officer authorized by regulation to exercise powers or perform duties of the Provincial Treasurer under this Act, shall be deemed to be a document signed, made and issued by the Provincial Treasurer, his deputy or the officer unless called in question by the Provincial Treasurer or by some person acting for him or Her Majesty.

(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.

(13) When any notice of an assessment has been sent by the Provincial Treasurer as required by this Act, the assessment shall be deemed to have been made on the day of mailing of the notice of the assessment.

(14) Every form purporting to be a form prescribed or authorized by the Provincial Treasurer shall be deemed to be a form prescribed by order of the Provincial Treasurer under this Act unless called in question by the Provincial Treasurer or some person acting for him or for Her Majesty.

(15) A document purporting to be a collection agreement entered into under this Act or an agreement with Canada for the collection of tax imposed under the income statute of an agreeing province that is

(a) published in the Canada Gazette, or

(b) certified as such by or on behalf of

(i) the Provincial Treasurer, or

(ii) the provincial treasurer, the provincial secretary-treasurer or the minister of finance of the appropriate agreeing province,

shall be admitted in evidence as prima facie proof of the contents thereof.

(16) In any prosecution for an offence under this Act, the production of a return, certificate, statement or answer required by or under this Act or a regulation purporting to have been filed or delivered by or on behalf of the person charged with the offence or to have been made or signed by him or on his behalf shall be admitted in evidence as prima facie proof that the return, certificate, statement or answer was filed or delivered by or on behalf of that person or was made or signed by him or on his behalf.

(17) Every certificate by the Provincial Treasurer as to

(a) a taxpayer's tax payable under the federal Act as defined in section 3(4)(d),

(b) a taxpayer's income for the year as defined in section 3(4)(c), or

(c) the taxable income of a corporation,

29 Section 60 is repealed and the following is substituted:

60 Where a collection agreement is in effect and an amount is remitted to the Minister under subsection 153(1) of the federal Act as it applies for the purposes of this Act on account of the tax of an individual who is resident on the last day of the taxation year in another agreeing province,

(a) no action lies for recovery of that amount by that individual, and

(b) the amount may not be applied in discharge of any liability of that individual under this Act.

30 Section 62(5) is repealed and the following is substituted:

(5) Where an adjusting payment is to be made and there has been an amount deducted or withheld under subsection 153(1) of the federal Act as it applies for the purposes of this Act on account of the tax for a taxation year of an individual who is taxable under the federal Act in respect of that year and who is resident on the last day of that taxation year in the non-agreeing province,

(a) no action lies for the recovery of that amount by that individual, and

(b) the amount may not be applied in discharge of any liability of that individual under this Act.

shall be admitted in evidence as prima facie proof that a taxpayer's tax payable under the federal Act, his income for the year or the taxable income of a corporation, as the case may be, is in the amount set out therein.

(18) If a collection agreement is entered into, any document or certificate that is executed or issued by the Minister, the Deputy Minister of the Department of National Revenue for Taxation, or an official of the Department of National Revenue on behalf or in place of the Provincial Treasurer, his deputy or an officer of his Department, shall be deemed, for all purposes of this Act, to be executed or issued by the Provincial Treasurer, his deputy or an officer of his Department, as the case may be.

29 Section 60 presently reads:

60 When a collection agreement is entered into and an amount is remitted to the Minister under section 18 on account of the tax of an individual who is resident on the last day of the taxation year in another agreeing province,

(a) no action lies for recovery of that amount by that individual, and

(b) the amount may not be applied in discharge of any liability of that individual under this Act.

30 Section 62(5) presently reads:

(5) When an adjusting payment is to be made and there has been an amount deducted or withheld under section 18 on account of the tax for a taxation year of an individual who is taxable under the federal Act in respect of that year and who is resident on the last day of that taxation year in the non-agreeing province,

(a) no action lies for the recovery of that amount by that individual, and

(b) the amount may not be applied in discharge of any liability of that individual under this Act.

31 Section 63(1) is amended by striking out “section 39(2)” and substituting “subsection 223(3) of the federal Act”.

31 Section 63(1) presently reads:

63(1) A judgment of a superior court of an agreeing province under that province's income tax statute, including any certificate registered in that superior court in a manner similar to that provided in section 39(2), may be enforced in the manner provided in the Reciprocal Enforcement of Judgments Act, and shall be deemed to be a judgment to which that Act applies.