

1990 BILL 30

Second Session, 22nd Legislature, 39 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 30

ALBERTA CORPORATE INCOME
TAX AMENDMENT ACT, 1990

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 30

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1990

ALBERTA CORPORATE 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 Corporate Income Tax Act is amended by this Act.*

2 *The title is repealed and the following is substituted:*

ALBERTA CORPORATE TAX ACT

3 *Section 1(4) is amended by striking out "section 26.4(4), section 38.1(1), section 39(1), (1.1), (2) or (6), section 47(4), (4.3)(b) or (5)(b) or section 91" and substituting "this Act".*

4(1) *Section 2(9) is repealed.*

(2) *Subsection (1) applies for the purposes of determining whether 2 or more corporations are associated with each other*

(a) *to the 1989 and subsequent taxation years where*

(i) *the taxation years of all the corporations commenced after 1988,*

(ii) *at least one of the corporations was incorporated, or was formed as a result of an amalgamation, after February 10, 1988,*

Explanatory Notes

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

2 Changes the title to reflect new taxes.

3 Section 1(4) presently reads:

(4) Interest computed at a prescribed rate under section 26.4(4), section 38.1(1), section 39(1), (1.1), (2) or (6), section 47(4), (4.3)(b) or (5)(b) or section 91 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 prescribed rate shall be computed and compounded daily on the unpaid interest from that day to the day it is paid.

4 Section 2(9) presently reads:

(9) A direction under subsection 247(2) of the federal Act applies for the purposes of this Act.

(iii) at least one of the corporations acquired after February 10, 1988 from a person with whom it did not deal at arm's length all or substantially all of the assets used by it in its business, or

(iv) the 1989 taxation year of at least one of the corporations did not end on approximately the same calendar date in 1989 as the calendar date in 1987 on which the 1987 taxation year, if any, of that corporation ended,

and

(b) in any other case, to the 1990 and subsequent taxation years.

5 Section 4.1 is amended

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

4.1(1) Subject to subsection (2), Parts 9 and 10 do not apply for the purposes of Parts 1 to 8.

(b) in subsection (2) by adding "or 10" after "Part 9".

6(1) The following is added after section 8:

8.1 In computing income for the purposes of this Act, no deduction may be made in respect of a disbursement or expense made or incurred in respect of a transaction or operation that, if allowed, would unduly or artificially reduce the income.

8.2 Where an amount is received or an amount becomes receivable by a corporation in a taxation year

(a) as a consequence of the disposition or exchange of any property,

(b) as a consequence of a corporation's having

(i) redeemed, cancelled or acquired any shares of any class of its capital stock,

(ii) reduced the paid-up capital of shares of any class of its capital stock, or

(iii) converted any shares of any class of its capital stock into shares of another class of its capital stock or into an obligation of the corporation,

or

5 Section 4.1 presently reads:

4.1(1) Subject to subsection (2), section 1, except subsections (2)(g), (3) and (4), and sections 2 to 85 shall be applied as if Part 9 were not included in this Act.

(2) A liability of a corporation that may be reduced by the application of an amount to the liability by the Provincial Treasurer under section 26.4 or 47 includes a liability under Part 9.

6 Artificial reduction of income and assets.

(c) otherwise, as an amount that would, but for this section, be exempt income

as part of a transaction or event effected or to be effected after September 13, 1988 or as part of a series of transactions or events each of which is effected or to be effected after that day and it can reasonably be considered that one of the purposes was to effect a significant reduction of, or disappearance of, assets of a corporation at any time in a manner such that the whole or any part of any tax that might otherwise have been or have become payable under this Act in consequence of any distribution of property of a corporation has been or will be avoided, the part of the amount so received or receivable by the taxpayer as is reasonable in the circumstances having regard to the amount of tax that, but for this section, would have been or would be avoided, shall be included in computing the income of the corporation for the year as income other than a taxable dividend from property.

(2) The following is added after section 8.2 as it is enacted by this Act:

8.3 Section 246 except paragraph 246(1)(b) of the federal Act applies in computing income except that the reference to Part I of that Act is deemed to be a reference to this Act.

(3) Subsection (1) applies with respect to transactions and events entered into on or after September 13, 1988.

(4) Subsection (2) applies with respect to benefits conferred on or after September 13, 1988 other than benefits conferred through

(a) transactions that are part of a series of transactions, determined without reference to subsection 248(10) of the federal Act, commencing before September 13, 1988 and completed before 1989, or

(b) any one or more transactions, one of which was entered into before April 13, 1988, that were entered into by a corporation in the course of an arrangement and in respect of which the corporation received from the Department of National Revenue or the Treasury Department before April 13, 1988 a confirmation or opinion in writing with respect to the tax consequences of the transactions.

7(1) The following is added after section 9:

9.1 For the purposes of this Division, where the result of one or more sales, exchanges, declarations of trust or other transactions of any kind whatever is that a taxpayer has disposed

7 Artificial reduction or loss from a disposition.

of property under circumstances such that he may reasonably be considered to have artificially or unduly

- (a) reduced the amount of his gain from the disposition,
- (b) created a loss from the disposition, or
- (c) increased the amount of his loss from the disposition,

the taxpayer's gain or loss, as the case may be, from the disposition shall be computed as if the reduction, creation or increase had not occurred.

(2) Subsection (1) applies with respect to transactions or events entered into on or after September 13, 1988.

8(1) Section 13 is repealed.

(2) Subsection (1) applies with respect to transactions entered into on or after September 13, 1988 other than

(a) transactions that are part of a series of transactions, determined without reference to subsection 248(10) of the federal Act, commencing before September 13, 1988 and completed before 1989, or

(b) any one or more transactions, one of which was entered into before April 13, 1988, that were entered into by a corporation in the course of an arrangement and in respect of which the corporation received from the Department of National Revenue or the Treasury Department before April 13, 1988 a confirmation or opinion in writing with respect to the tax consequences of the transactions.

9(1) Section 18(2) is amended by adding "110.1," after "110,".

(2) Subsection (1) applies with respect to computations of taxable income for the 1988 and subsequent taxation years.

10(1) Section 22 is amended

(a) in subsection (2) by striking out "Alberta allocation factor" and substituting "small business allocation factor";

(b) by repealing subsection (2)(b) and substituting the following:

(b) the amount, if any, by which the corporation's taxable income for the year exceeds the aggregate of

8 Section 13 presently reads:

13(1) Subject to subsection (2), section 245 of the federal Act applies in computing income except that the reference to Part I of that Act shall be deemed to be a reference to this Act.

(2) Paragraph 245(2)(b) of the federal Act does not apply.

(3) An amount included in computing income of a corporation pursuant to section 247 of the federal Act shall be deemed to be included in the income of that corporation for that taxation year for the purposes of this Act.

9 Section 18(2) presently reads:

(2) Subject to subsection (3), sections 110, 111, 112 and 113 of the federal Act apply in the calculation of taxable income for the purposes of this Act.

10 Section 22(2) and (2.1) presently read:

(2) There may be deducted from the tax payable under section 21 for a taxation year by a corporation that was, throughout the year, a Canadian-controlled private corporation, an amount equal to the product obtained when the Alberta allocation factor is multiplied by the applicable percentage for the taxation year of the least of

(a) the amount, if any, by which the aggregate of

(i) the aggregate of the amounts determined under subparagraphs 125(1)(b)(i) and (ii) of the federal Act, and

(ii) the corporation's royalty tax deduction for the year,

and

(c) in subsection (2.1)(c) by adding "and ending before April 1, 1990" after "March 31, 1987";

(d) by striking out "and" at the end of subsection (2.1)(b) and by adding the following after clause (c):

(d) for a taxation year part of which is before April 1, 1990 and part of which is after March 31, 1990 is the aggregate of

(i) the proportion of 10% that the number of days in the year before April 1, 1990 bears to the number of days in the year, and

(ii) the proportion of 9% that the number of days in the year after March 31, 1990 bears to the number of days in the year,

and

(e) for a taxation year beginning after March 31, 1990 is 9%.

(e) by adding the following after subsection (2.1):

(2.2) For the purposes of subsection (2), the "small business allocation factor" is the Alberta allocation factor that would be determined if, during the taxation year, the corporation had no permanent establishment in a country other than Canada.

(2) Subsection (1)(a) and (e) apply to taxation years ending after this Act is assented to.

(3) Subsection (1)(b) applies to taxation years ending after June 1987.

(4) Subsection (1)(c) and (d) apply after March 31, 1990.

(i) the aggregate of all amounts each of which is the income of the corporation for the year from an active business carried on in Canada other than the income of the corporation for the year from a business carried on by it as a member of a partnership, and

(ii) the specified partnership income of the corporation for the year

exceeds the aggregate of

(iii) the aggregate of all amounts each of which is a loss of the corporation for the year from an active business carried on in Canada other than a loss of the corporation for the year from a business carried on by it as a member of a partnership,

(iv) the specified partnership loss of the corporation for the year, and

(v) the corporation's royalty tax deduction for the year,

(b) the amount, if any, by which the corporation's taxable income for the year exceeds the aggregate of

(i) 2.5 times the aggregate of amounts that would be deductible under subsection 126(1) of the federal Act from the tax otherwise payable by it for the year under Part I of the federal Act if the amount determined under subparagraph 126(7)(d)(i) of the federal Act were determined without reference to paragraph 123(1)(c) of the federal Act,

(ii) 2 times the aggregate of the amounts deducted under subsection 126(2) of the federal Act from the tax otherwise payable by it for the year under Part I of the federal Act, and

(iii) the corporation's royalty tax deduction for the year,

and

(c) the corporation's business limit for the year.

(2.1) For the purposes of subsection (2), the applicable percentage

(a) for a taxation year ending before April 1, 1987 is 6%,

(b) for a taxation year, part of which is before April 1, 1987 and part of which is after March 31, 1987 is the aggregate of

11(1) Section 22.1 is amended

(a) in subsection (1)(h)(iv) by adding “, extracting petroleum or natural gas from a natural accumulation of it” after “gas well”;

(b) by adding the following after subsection (7):

(7.1) This section does not apply to taxation years commencing after March 31, 1990.

(2) Subsection (1)(a) applies to taxation years ending after March 31, 1985.

(3) Subsection (1)(b) applies to taxation years commencing after March 31, 1990.

(i) the proportion of 6% that the number of days in the year before April 1, 1987 bears to the number of days in the year, and

(ii) the proportion of 10% that the number of days in the year after March 31, 1987 bears to the number of days in the year,

and

(c) for a taxation year beginning after March 31, 1987 is 10%.

11 Section 22.1(1)(h) presently reads:

22.1(1) In this section, except as otherwise provided in subsections (8) and (9),

(h) "manufacturing or processing" does not include

(i) farming or fishing,

(ii) logging,

(iii) construction,

(iv) operating an oil or gas well or processing heavy crude oil recovered from a natural reservoir in Canada to a stage that is not beyond the crude oil stage or its equivalent,

(v) extracting minerals from a mineral resource,

(vi) processing ore, other than iron ore or tar sands, from a mineral resource to any stage that is not beyond the prime metal stage or its equivalent,

(vii) processing iron ore from a mineral resource to any stage that is not beyond the pellet stage or its equivalent,

(vii.1) processing tar sands to any stage that is not beyond the crude oil stage or its equivalent,

(viii) producing industrial minerals other than sulphur produced by processing natural gas,

(ix) producing or processing electrical energy or steam, for sale,

(x) processing gas, if such gas is processed as part of the business of selling or distributing gas in the course of operating a public utility, or

12(1) Section 26 is amended

(a) in subsection (1) by adding the following after clause (d):

(d.1) “crown royalty shelter” means a corporation’s crown royalty shelter determined under section 26.1;

(b) in subsection (1) by adding the following after clause (h):

(i) “weighted average rate” means the weighted average rate determined in accordance with the regulations.

(c) by repealing subsection (1.12) and substituting the following:

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

(a) it has Alberta crown royalty in excess of \$2 500 000,
or

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

(i) its Alberta crown royalty for that taxation year,
and

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

is in excess of \$2 500 000.

(d) in subsection (1.15) by striking out “Notwithstanding subsection (3), if” and substituting “If”;

(xi) any manufacturing or processing of goods for sale or lease, if, for any taxation year of a corporation in respect of which the expression is being applied, less than 10% of its gross revenue from all active businesses carried on in Canada was from

(A) the selling or leasing of goods manufactured or processed in Canada by it, and

(B) the manufacturing or processing in Canada of goods for sale or lease, other than goods for sale or lease by it;

12 Section 26(1.12), (1.15), (1.6), (1.9), (1.92), (2), (3), (3.1), (4) and (5) presently read:

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

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

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

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

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

is in excess of \$4 000 000.

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

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

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

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

(1.6) For the purposes of subsections (1)(a)(ii), (1.7)(b), (1.8) and (1.92), one corporation is associated with another corporation at a particular time if by reference to that particular time the corporation would have been associated with the other

(e) in subsection (1.6) by striking out “subsections (1)(a)(ii), (1.7)(b), (1.8) and (1.92)” and substituting “this Division”;

(f) in subsection (1.9) by striking out “corporations referred to in clause (a) or (b)” and substituting “amalgamating corporations”;

(g) in subsection (1.92) by adding “, notwithstanding subsection (2),” before “is associated”;

(h) by adding the following after subsection (1.92):

(1.93) If at any time a partnership disposes of all or part of a right or interest of any nature whatsoever or howsoever described in any production from a petroleum or natural gas well in Alberta to a corporation in circumstances to which subsection 98(3) of the federal Act applies, and the Provincial Treasurer is satisfied that the disposition will not increase the amount of royalty tax credit that would otherwise be determined under this Act, the Provincial Treasurer may deem that, for the purposes of subsection (1)(h)(iii), the disposition has not occurred.

(i) by adding the following after subsection (1.93):

(1.94) If, before a particular petroleum or natural gas well in Alberta is spudded, 2 persons enter into an agreement in respect of the well under the terms of which

(a) one person, in this subsection referred to as the “farmor”, disposes of a working interest in the well to another person, in this subsection referred to as the “farmee”, in consideration for the farmee’s incurring Canadian development expense or Canadian exploration expense in respect of the well,

(b) the farmor reserves out a gross overriding royalty in respect of production from the well at the time the farmor disposes of the working interest in the well, and

(c) the farmor has an option to convert the gross overriding royalty into a working interest in the well which, if exercised, must be exercised within a stipulated number of days, not exceeding 60, of receiving written notification from the farmee to the effect that the farmee’s cumulative net proceeds from production from the well is at least equal to its cumulative costs of drilling, equipping, completing and operating the well,

corporation in its taxation year in which the particular time falls pursuant to subsection (2).

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

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

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

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

(1.92) If at any particular time after April 7, 1986 a restricted corporation disposes of any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta to a corporation that is associated with it immediately before the date of the disposition, for the purposes of subsection (1)(h)(ii),

(a) that disposition is deemed not to have occurred, and

(b) the corporation acquiring the right, interest or part is deemed to be a restricted corporation with respect to any disposition by it of any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta that takes place within 365 days of that particular time.

(2) Subject to subsections (3) and (6), if 2 or more corporations are associated or deemed to be associated with each other under this Act, only those associated corporations that have Alberta crown royalty in the taxation year during which they are associated ending in the same calendar year are the corporations that are associated with each other for the purposes of this Division.

(3) In this Division, if a corporation (referred to in this subsection as the "taxpayer corporation") was, throughout the year,

(a) resident in Canada, and

(b) not controlled directly or indirectly in any manner by 1 or more persons who are not resident in Canada,

and it and another corporation are associated with each other for a taxation year, and that other corporation was, throughout the

the disposition by the farmor described in clause (a) and any disposition by the farmee of a working interest in the well pursuant to the farmor's exercise of the option described in clause (c) are deemed not to be dispositions for the purposes of subsection (1)(h).

(j) *in subsection (2) by striking out "Subject to subsections (3) and (6), if" and substituting "If";*

(k) *by repealing subsections (3), (3.1), (4) and (5).*

(2) *Subsection (1)(c) applies in the determination of whether a corporation is a restricted corporation at any particular time after December 31, 1989 unless the determination relates to a transaction carried out pursuant to an agreement in writing entered into before November 7, 1989.*

(3) *Subsection (1)(d), (j) and (k) apply for the purpose of determining if one corporation is deemed not to be associated with another corporation*

(a) *to the 1992 and subsequent taxation years*

(i) *if the corporations would, but for section 26(3) of the Alberta Corporate Tax Act, be associated under Division 1 of Part 6 of that Act as of November 6, 1989, or*

(ii) *if the corporations would, but for section 26(3) of the Alberta Corporate Tax Act, be associated under Division 1 of Part 6 of that Act in taxation years ending before January 1, 1992 because of obligations pursuant to an agreement in writing entered into before November 7, 1989,*

and

(b) *in any other case, to taxation years ending after November 6, 1989.*

(4) *Subsection (1)(e) applies after August 23, 1982.*

(5) *Subsection (1)(f) applies to amalgamations that occur after this Act is assented to.*

(6) *Subsection (1)(g) and (h) apply to a disposition made after this Act is assented to.*

(7) *Subsection (1)(i) applies to dispositions made after August 24, 1982.*

year and from the later of June 1, 1987 and the day on which the corporations last became associated,

(c) a Canadian-controlled public corporation, other than a corporation that controlled the taxpayer corporation, or

(d) controlled by a Canadian-controlled public corporation that is a corporation other than the taxpayer corporation or a corporation that controlled the taxpayer corporation,

the taxpayer corporation and the other corporation are deemed not to be associated with each other for the year.

(3.1) In its application to the first taxation year in which the taxpayer corporation and that other corporation, within the meaning of subsection (3), become associated, subsection (3) shall be read as if "other corporation was, throughout the year" was struck out and "other corporation was, throughout the period in the year that commences on the day the association arose" was substituted.

(4) In subsection (5),

(a) "equity share" has the meaning assigned to it by paragraph 204(a) of the federal Act;

(b) "prescribed stock exchange in Canada" means a stock exchange in Canada that is prescribed for the purposes of the federal Act in the federal regulations.

(5) For the purposes of subsection (3), a corporation is a Canadian-controlled public corporation if

(a) it is resident in Canada,

(b) it is a corporation other than a corporation controlled directly or indirectly in any manner by 1 or more persons who are not resident in Canada,

(c) a class or classes of equity shares of a corporation having full voting rights under all circumstances are listed on a prescribed stock exchange in Canada and the class or classes represent in the aggregate not less than 50% of that part of the paid-up capital of the corporation that was represented by all its issued and outstanding equity shares, and

(d) no person either alone or in combination with any person related to him within that year owned equity shares representing in the aggregate more than 90% of that part of the paid-up capital of the corporation that was represented by all its issued and outstanding equity shares.

13(1) Section 26.1 is amended

(a) by repealing subsections (1) to (7) and substituting the following:

26.1(1) The Provincial Treasurer may make regulations respecting the determination of the weighted average rate for a taxation year of a corporation.

(2) Subject to subsection (14), a corporation that has Alberta crown royalty in a taxation year is entitled to a royalty tax credit for the year in the amount obtained when the weighted average rate for that year is multiplied by the lesser of

- (a) its crown royalty shelter for the year, and
- (b) its Alberta crown royalty for the year.

(3) If a corporation is not associated with one or more corporations in a taxation year, its crown royalty shelter for the taxation year is the lesser of

- (a) \$2 500 000, and
- (b) that proportion of \$2 500 000 that the number of days in the taxation year bears to 365.

(4) If a corporation is associated with one or more corporations in a taxation year, its crown royalty shelter for the taxation year is that portion of the aggregate of the crown royalty shelters calculated under subsection (5), (7.02) or (7.05) that is allocated to the corporation under subsection (6) or (7).

(5) The aggregate of the crown royalty shelters to be allocated among 2 or more corporations that are associated with each other in a taxation year is the lesser of

- (a) \$2 500 000, and
- (b) that proportion of \$2 500 000 that the number of days in the taxation year of the corporation with the longest taxation year bears to 365.

(6) If 2 or more corporations that are associated with each other file an agreement in the prescribed form with the Provincial Treasurer, the Provincial Treasurer shall allocate the aggregate of the crown royalty shelters among the corporations in accordance with the agreement if the agreement

13 Section 26.1(9), (10) and (14) presently read:

(9) Notwithstanding section 26(3), if the Provincial Treasurer is satisfied that

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

(b) 1 of the main reasons for the separate existence of the corporations in that year is to increase the amount of royalty tax credit that would otherwise be determined under this Act,

the Provincial Treasurer may direct that all of the corporations shall be deemed to be associated with each other for the purposes of this Division.

(10) Notwithstanding section 26(3), if in the opinion of the Provincial Treasurer, 2 or more corporations have at any time entered into 1 or more sales, exchanges, declarations of trust or other transactions that

(a) lack any substantial business purpose, other than increasing the aggregate amount of the royalty tax credit that may be claimed, or

(b) artificially increase the royalty tax credit that may be claimed,

the Provincial Treasurer may direct that all of those corporations shall be deemed to be associated with each other for the purposes of this Division.

(14) A corporation is entitled to a royalty tax credit in respect of the taxation year only if it files an application for the credit in the prescribed form

(a) with its 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.

(a) is among all of the corporations, and

(b) allocates the aggregate of the crown royalty shelters of the corporations calculated under subsection (5), (7.02) or (7.05).

(7) If the corporations referred to in subsection (6) do not file an agreement in accordance with subsection (6) within 60 days after notice by the Provincial Treasurer that an agreement under subsection (6) for a taxation year is required for the purposes of this Act is mailed to any of them, the Provincial Treasurer shall allocate the aggregate of the crown royalty shelters of the corporations calculated under subsection (5), (7.02) or (7.05) to one or more of the corporations, and the crown royalty shelter of each corporation for that taxation year is the amount, if any, allocated to it.

(b) by adding the following before subsection (7.1):

(7.01) Notwithstanding subsection (3), if a corporation is not associated with one or more corporations in a taxation year and part of the taxation year is before January 1, 1990 and part of it is after December 31, 1989, the crown royalty shelter of the corporation for that taxation year is the aggregate of

(a) the lesser of

(i) \$2 500 000, and

(ii) the proportion of \$2 500 000 that the number of days in the taxation year bears to 365,

and

(b) the proportion of \$1 500 000 that the number of days in the taxation year before January 1, 1990 bears to 365.

(7.02) Notwithstanding subsection (5), if 2 or more corporations are associated with each other in a taxation year and the taxation year of one of them begins before January 1, 1990 and ends after December 31, 1989, the aggregate of the crown royalty shelters for those corporations for the taxation year in which they are associated is the aggregate of

(a) the lesser of

(i) \$2 500 000, and

(ii) the proportion of \$2 500 000 that the number of days in the taxation year of the corporation with the longest taxation year bears to 365,

and

(b) the proportion of \$1 500 000 that the number of days before January 1, 1990 in the taxation year of the corporation with the greatest number of days before January 1, 1990 bears to 365.

(7.03) Notwithstanding subsection (3), if in a taxation year of a corporation commencing after December 31, 1989 the corporation is not associated with one or more corporations and is a member of one or more partnerships whose fiscal periods ending in that taxation year commenced before January 1, 1990 and ended after December 31, 1989, the crown royalty shelter of the corporation for that taxation year is the aggregate of

(a) the proportion of the lesser of

(i) \$2 500 000, and

(ii) the proportion of \$2 500 000 that the number of days in the taxation year bears to 365,

that the difference between the Alberta crown royalty of the corporation for the year and the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty for the year from all those partnerships bears to the Alberta crown royalty of the corporation for the year, and

(b) an amount for each of those partnerships that is equal to the proportion of the aggregate of

(i) the lesser of

(A) \$2 500 000, and

(B) the proportion of \$2 500 000 that the number of days in the fiscal period of that partnership bears to 365,

and

(ii) the proportion of \$1 500 000 that the number of days in the fiscal period of that partnership before January 1, 1990 bears to 365,

that the Alberta crown royalty deemed by subsection (12) or (12.1) to be the Alberta crown royalty of the corporation for the year from that partnership bears to the Alberta crown royalty of the corporation for the year.

(7.04) Notwithstanding subsections (3) and (7.01), if in a taxation year of a corporation part of which is before January 1, 1990 and part of which is after December 31, 1989 the corporation is not associated with one or more corporations and is a member of one or more partnerships whose fiscal periods ending in that taxation year

(a) ended in 1989, in this subsection referred to as a "1989 partnership", or

(b) commenced before January 1, 1990 and ended after December 31, 1989, in this subsection referred to as a "1990 partnership",

the crown royalty shelter of the corporation for that taxation year is the aggregate of

(c) the proportion of the aggregate of

(i) the lesser of

(A) \$2 500 000, and

(B) the proportion of \$2 500 000 that the number of days in the taxation year bears to 365,

and

(ii) the proportion of \$1 500 000 that the number of days in the taxation year before January 1, 1990 bears to 365

that the difference between the Alberta crown royalty of the corporation for the year and the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty of the corporation for the year from all the 1989 partnerships and the 1990 partnerships bears to the Alberta crown royalty of the corporation for the year,

(d) an amount for each of the 1989 partnerships that is equal to the proportion of the lesser of

(i) \$4 000 000, and

(ii) the proportion of \$4 000 000 that the number of days in the fiscal period of that partnership bears to 365

that the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty of the corporation for the year from that partnership bears to the Alberta crown royalty of the corporation for the year, and

(e) an amount for each of the 1990 partnerships that is equal to the proportion of the aggregate of

(i) the lesser of

(A) \$2 500 000, and

(B) that proportion of \$2 500 000 that the number of days in the fiscal period of that partnership bears to 365,

and

(ii) the proportion of \$1 500 000 that the number of days in the fiscal period of that partnership before January 1, 1990 bears to 365,

that the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty of the corporation for the year from that partnership bears to the Alberta crown royalty of the corporation for the year.

(7.05) Notwithstanding subsections (5) and (7.02), if 2 or more corporations are associated with each other in a taxation year and one or more of the corporations is a corporation to which subsection (7.03) or (7.04) would apply if it were not associated with one or more corporations in that taxation year, the aggregate of the crown royalty shelters for those corporations for the taxation year in which they are associated is the greater of

(a) the crown royalty shelter of the corporation with the greatest crown royalty shelter for that taxation year determined pursuant to subsection (3), (7.01), (7.03) or (7.04) as if it were not associated, and

(b) an amount that is equal to the aggregate of

(i) the lesser of

(A) \$2 500 000, and

(B) the proportion of \$2 500 000 that the number of days in the taxation year of the corporation with the longest taxation year bears to 365,

and

(ii) the proportion of \$1 500 000 that the number of days before January 1, 1990 in the taxation year of the corporation with the greatest number of days before January 1, 1990 bears to 365.

(c) in subsection (9) by striking out "Notwithstanding section 26(3), if" and substituting "If";

(d) in subsection (10) by striking out "Notwithstanding section 26(3), if" and substituting "If";

(e) by repealing subsection (13);

(f) by repealing subsection (14)(b) and substituting the following:

(b) on a day after the return has been filed, but no later than 3 years after the end of the taxation year.

(g) by adding the following after subsection (14.1):

(14.2) Where a corporation has a taxation year part of which is after December 31, 1994, the amount determined under subsection (2) for that taxation year shall be the proportion of the amount otherwise determined that the number of days preceding January 1, 1995 in the taxation year is to the whole of the taxation year.

(14.3) This section does not apply to taxation years commencing after December 31, 1994.

(2) Subsection (1)(a), (b) and (e) apply to taxation years ending after December 31, 1989.

(3) Subsection (1)(c) and (d) apply for the purpose of determining if one corporation is deemed not to be associated with another corporation

(a) to the 1992 and subsequent taxation years,

(i) if the corporations would, but for section 26(3) of the Alberta Corporate Tax Act, be associated under Division 1 of Part 6 of that Act as of November 6, 1989, or

(ii) if the corporations would, but for section 26(3) of the Alberta Corporate Tax Act, be associated under Division 1 of Part 6 of that Act in taxation years ending before January 1, 1992 because of obligations pursuant to an agreement in writing entered into before November 7, 1989,

and

(b) in any other case, to taxation years ending after November 6, 1989.

(4) Subsection (1)(f) applies to taxation years ending after the date on which this Act is assented to.

14 Sections 26.2, 26.3, 26.31 and 26.32 are repealed.

14 Sections 26.2, 26.3, 26.31 and 26.32 presently read:

26.2(1) Notwithstanding section 26.1(1) to (7) and (13), if a corporation has Alberta crown royalty in a taxation year, part of which is before September 1, 1981 and part of which is after August 31, 1981, or has Alberta crown royalty in a taxation year ending before September 1, 1981 when it is associated with another corporation in a taxation year of the other corporation, part or all of which is after August 31, 1981, it is entitled to a royalty tax credit for the year in an amount equal to the aggregate of

(a) the lesser of

(i) 25% of the corporation's Alberta crown royalty for the year, and

(ii) the corporation's maximum allowable credit for the year determined under subsection (2), and

(b) the lesser of

(i) 50% of the corporation's Alberta crown royalty for the period in the year after August 31, 1981, and

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

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

(a) \$1 000 000, and

(b) that proportion of \$1 000 000 that the number of days in the year bears to 365,

unless in the year the corporation is associated with another corporation, in which case the corporation's maximum allowable credit for the year is

(c) the amount allocated to the corporation under subsection (4) or (5), or

(d) where subsection (4) and (5) do not apply, the lesser of the amounts referred to in clauses (a) and (b).

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

(a) \$3 000 000, and

(b) that proportion of \$3 000 000 that the number of days in the year after August 31, 1981 bears to 365,

unless in the year the corporation is associated with another corporation, in which case the corporation's additional maximum allowable credit for the year is the amount allocated to the corporation under subsection (7) or (8).

(4) If 2 or more corporations are associated with each other and the aggregate of the amounts determined for those corporations under subsection (1)(a) for the taxation year would exceed, but for this subsection, the amount determined under subsection (6), the maximum allowable credit for each of the corporations for that taxation year shall be that proportion of the maximum allowable credit determined under subsection (6) allocated to that corporation by an agreement made amongst those corporations setting out the proportions in which the maximum allowable credit under subsection (6) is to be divided amongst them.

(5) An agreement referred to in subsection (4) shall be filed with the Provincial Treasurer but, if no agreement is filed within 60 days of filing an application under section 26.1(14) or within 30 days after notice in writing by the Provincial Treasurer has been forwarded to any of the corporations referred to in subsection (4) that an agreement is required for the purposes of this section, the Provincial Treasurer shall for the purposes of this section allocate an amount to 1 or more of them for the taxation year and that amount or the aggregate of those amounts, as the case may be, shall be equal to the maximum allowable credit for the taxation year and in that case, notwithstanding subsection (4), the maximum allowable credit for the taxation year for each of the associated corporations shall be the amount allocated to it under this subsection.

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

(a) \$1 000 000, and

(b) that proportion of \$1 000 000 that the number of days in the taxation year of the associated corporation with the longest year bears to 365.

(7) The Provincial Treasurer shall allocate to each corporation in a group of corporations that are associated with each other an additional maximum allowable credit equal to that proportion of the amount determined under subsection (9) that

(a) the lesser of

(i) that corporation's Alberta crown royalty for the period in the year after August 31, 1981, and

(ii) \$6 000 000

is of

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

(8) Notwithstanding subsection (7), if 2 or more corporations that are associated with each other file an agreement in the prescribed form with the Provincial Treasurer and that agreement

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

(b) allocates the relevant amount in subsection (9) of the additional maximum allowable credit to any or all of the associated corporations,

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

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

(a) \$3 000 000, and

(b) that proportion of \$3 000 000 that the number of days after August 31, 1981 in the taxation year of the associated corporation whose taxation year contains the greatest number of days after August 31, 1981 bears to 365.

26.3(1) Notwithstanding section 26.1(1) to (7) and (13), if a corporation has Alberta crown royalty in a taxation year, part of which is before January 1, 1984 and part of which is after December 31, 1983, or has Alberta crown royalty in a taxation year beginning after December 31, 1983 when it is associated

with another corporation in a taxation year of the other corporation, part or all of which is before January 1, 1984, it is entitled to a royalty tax credit for the year in an amount equal to the aggregate of

(a) the lesser of

(i) 50% of the corporation's Alberta crown royalty for the year, and

(ii) the corporation's maximum allowable credit for the year determined under subsection (2), and

(b) the lesser of

(i) 25% of the corporation's Alberta crown royalty for the period in the year before January 1, 1984, and

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

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

(a) \$2 000 000, and

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

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

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

(a) \$2 000 000, and

(b) that proportion of \$2 000 000 that the number of days in the year before January 1, 1984 bears to 365,

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

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

(a) the lesser of

(i) that corporation's Alberta crown royalty, and

(ii) \$4 000 000

is of

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

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

(a) the lesser of

(i) that corporation's Alberta crown royalty for the period in the year before January 1, 1984, and

(ii) \$8 000 000

is of

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

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

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

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

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

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

(a) \$2 000 000, and

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

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

(a) \$2 000 000, and

(b) that proportion of \$2 000 000 that the number of days before January 1, 1984 in the taxation year of the associated corporation whose taxation year contains the greatest number of days before January 1, 1984 bears to 365.

26.31(1) Notwithstanding section 26.1(1) to (7) and (13), if a corporation has Alberta crown royalty

(a) in a taxation year part of which is before April 1, 1986 and part of which is after March 31, 1986, or

(b) in a taxation year when it is associated with another corporation in a taxation year of the other corporation part of which is before April 1, 1986 and part of which is after March 31, 1986,

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

(c) the aggregate of

(i) 50% of the corporation's Alberta crown royalty for the year, and

(ii) 45% of the corporation's Alberta crown royalty for the period in the year after March 31, 1986,

and

(d) the corporation's maximum allowable credit for the year determined under subsection (2).

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

(a) the lesser of

(i) \$2 000 000, and

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

and

(b) the lesser of

(i) \$1 000 000, and

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

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

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

(a) the lesser of

(i) that corporation's Alberta crown royalty, and

(ii) \$4 000 000

is of

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

(5) Repealed 1987 c36 s14.

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

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

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

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

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

(a) the lesser of

(i) \$2 000 000, and

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

and

(b) the lesser of

(i) \$1 000 000, and

15(1) Section 26.4 is repealed and the following is substituted:

26.4(1) In this section, “moving average of the specified rates” means the moving average of the specified rates determined in accordance with the regulations.

(2) The Provincial Treasurer may make regulations respecting the determination of the moving average of the specified rates.

(3) A corporation that has reason to believe it will be entitled to a royalty tax credit for a taxation year may, in respect of each month in the year, apply to the Provincial Treasurer at any time before the end of the year in the prescribed form for payment of a royalty tax credit instalment.

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

(8) Repealed 1987 c36 s14.

26.32 Unless otherwise prescribed by regulation and notwithstanding section 26.1(1), (2) and (13),

(a) if a corporation has Alberta crown royalty in a taxation year part of which is before January 1, 1988 and part of which is after December 31, 1987, or

(b) if a corporation has Alberta crown royalty in a taxation year when it is associated with another corporation in a taxation year of the other corporation part of which is before January 1, 1988 and part of which is after December 31, 1987,

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

(c) the aggregate of

(i) 75% of the corporation's Alberta crown royalty for the year, and

(ii) 20% of the corporation's Alberta crown royalty for the period in the year before January 1, 1988,

and

(d) the corporation's maximum allowable credit for the year determined under section 26.1.

15 Section 26.4 presently reads:

26.4(1) A corporation that has reason to believe it will be entitled to a royalty tax credit for a taxation year may, in respect of each month in the year, apply to the Provincial Treasurer at any time before the end of the year in the prescribed form for payment of an amount that is the proportion of the royalty tax credit to which the corporation estimates it is entitled for the year that the number of days in the month bears to the number of days in the year.

(2) If a corporation applies for payment in respect of a month under subsection (1), the Provincial Treasurer may determine the amount, if any, to be paid or applied by him and, on or after the last day of the month,

(4) A corporation's royalty tax credit instalment for a month in a taxation year is the amount by which

(a) the product obtained when the lesser of

(i) the corporation's estimated Alberta crown royalty for the year, and

(ii) the corporation's estimated crown royalty shelter for the year as determined without reference to section 26.1(7.03), (7.04) and (7.05)

is multiplied by

(iii) the proportion that the number of days from the beginning of the taxation year to the last day of that month bears to the number of days in the taxation year, and

(iv) the moving average of the specified rates determined in respect of that month,

exceeds

(b) the aggregate of the royalty tax credit instalments in respect of previous months in the taxation year paid to the corporation or applied to any liability it had under this Act.

(5) If a corporation applies for payment in respect of a month under this section, the Provincial Treasurer may determine the amount, if any, to be paid or applied by him and, on or after the last day of the month,

(a) pay the amount to the corporation, or

(b) if the corporation is liable to make a payment under this Act,

(i) apply the amount to reduce the liability, or

(ii) pay part of the amount to the corporation and apply the balance of the amount to reduce the liability,

and the amount or the part of the amount applied at a particular time to reduce the liability is deemed to be a payment to the corporation that is paid by the corporation at the particular time to the Provincial Treasurer on account of the liability.

(2) Subsection (1) applies to instalments made in respect of months in 1990 and subsequent years.

(a) pay the amount to the corporation, or

(b) if the corporation is liable to make a payment under this Act,

(i) apply the amount to reduce the liability, or

(ii) pay part of the amount to the corporation and apply the balance of the amount to reduce the liability,

and the amount or part of the amount applied at a particular time to reduce the liability is deemed to be a payment to the corporation that is paid by the corporation at the particular time to the Provincial Treasurer on account of the liability.

16 *Section 30 is amended*

(a) *in subsection (2)(c) by adding* “and ending before July 1, 1988” *after* “March 31, 1987”;

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

(2.01) In the application of subparagraph 131(2)(a)(i) of the federal Act for the purposes of this Act, a reference to “21%” shall be read as a reference to “11.25%” and a reference to “18 2/3%” shall be read as a reference to “10%” in respect of a taxation year ending after June 30, 1988.

(c) *in subsection (4)(c) by adding* “and ending before July 1, 1988” *after* “March 31, 1987”;

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

(4.1) In the application of clauses 131(6)(a)(i)(A) and 131(6)(b)(ii)(C) of the federal Act for the purposes of this Act, the reference to “100/21” shall be read as a reference to “80/9” and the reference to “75/14” shall be read as a reference to “100/10” in respect of a taxation year ending after June 30, 1988.

(e) *in subsection (5)(c) by adding* “and ending before July 1, 1988” *after* “March 31, 1987”;

(f) *by adding the following after subsection (5):*

(5.1) In the application of paragraph 131(6)(d) of the federal Act for the purposes of this Act, subparagraph (i) shall be read in respect of a taxation year ending after June 30, 1988

(a) as if clause (A) of that subparagraph read “15% of its taxable income for the year”,

(b) as if clause (B) of that subparagraph read “15% of its taxed capital gains for the year”, and

(c) as if in clause (C) “this Part for the year determined without reference to section 123.2” were struck out and “this Act for the year” were substituted.

16 Section 30(2), (4) and (5) presently read:

(2) In the application of subparagraph 131(2)(a)(i) of the federal Act for the purposes of this Act, the reference to "18%" shall be read,

(a) in respect of a taxation year ending before April 1, 1987, as a reference to "5.5%",

(b) in respect of a taxation year part of which is before April 1, 1987 and part of which is after March 31, 1987 as a reference to the aggregate of

(i) the proportion of 5.5% that the number of days in the year before April 1, 1987 bears to the number of days in the year, and

(ii) the proportion of 7.5% that the number of days in the year after March 31, 1987 bears to the number of days in the year,

or

(c) in respect of a taxation year beginning after March 31, 1987, as a reference to "7.5%".

(4) In the application of clause 131(6)(a)(i)(A) and clause 131(6)(b)(ii)(C) of the federal Act for the purposes of this Act, the reference to "50/9" shall be read,

(a) in respect of a taxation year ending before April 1, 1987, as a reference to "200/11",

(b) in respect of a taxation year part of which is before April 1, 1987 and part of which is after March 31, 1987, as a reference to the aggregate of

(i) 200/11 times the number of days in the year before April 1, 1987 divided by the number of days in the year, and

(ii) 40/3 times the number of days in the year after March 31, 1987 divided by the number of days in the year,

or

(c) in respect of a taxation year beginning after March 31, 1987, as a reference to "40/3".

17(1) Section 35 is amended

(a) by adding the following after subsection (1):

(1.1) Subsection (1) does not apply in respect of the taxable income of a benevolent or fraternal benefit society or order from carrying on a life insurance business or, for greater certainty, from the sale of property used by it in the year in, or held by it in the year in the course of, carrying on a life insurance business.

(1.2) For the purposes of subsection (1.1), the taxable income of a benevolent or fraternal benefit society or order from carrying on a life insurance business shall be computed on the assumption that it had no income or loss from any other sources.

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

(2.1) Subject to subsection (2.2), subsection (1) applies in respect of an insurer referred to in paragraph 149(1)(t) of the federal Act only in respect of that proportion of the insurer's taxable income for a taxation year that

(a) the insurer's gross premium income, net of reinsurance ceded, for the year that in the opinion of the Provincial Treasurer, on the advice of the Superintendent

(5) In the application of paragraph 131(6)(d) of the federal Act for the purposes of this Act, subparagraph (i) shall be read without reference to clause (C) and the reference to "36%" in clauses (A) and (B) of that subparagraph shall be read,

(a) in respect of a taxation year ending before April 1, 1987, as a reference to "11%",

(b) in respect of a taxation year part of which is before April 1, 1987 and part of which is after March 31, 1987, as a reference to the aggregate of

(i) the proportion of 11% that the number of days in the year before April 1, 1987 bears to the number of days in the year, and

(ii) the proportion of 15% that the number of days in the year after March 31, 1987 bears to the number of days in the year,

or

(c) in respect of a taxation year beginning after March 31, 1987, as a reference to "15%".

17 Section 35(1) and (3) presently read:

35(1) No tax is payable under this Act

(a) on the taxable income of a corporation for a period when that corporation was, notwithstanding subsection 27(2) of the federal Act, a corporation referred to in section 149 of the federal Act other than a prescribed corporation,

(b) on the taxable income of a corporation when that corporation was a non-resident owned investment corporation within the meaning of paragraph 133(8)(d) of the federal Act,
or

(c) by a corporation in respect of which an election has been made for the taxation year pursuant to subsection 143(2) of the federal Act and the Minister has accepted the election pursuant to subsection 143(3) of the federal Act.

(3) If at any time, in this subsection referred to as "that time", a corporation becomes or ceases to be exempt from tax under this Act on its taxable income, the following rules apply:

(a) the taxation year of the corporation that would otherwise have included that time shall be deemed to have ended immediately before that time and a new taxation year of the corporation shall be deemed to have commenced at that time;

of Financial Institutions or the Superintendent of Insurance of the province under whose laws the insurer is incorporated, was in respect of the insurance of farm property, property used in fishing or residences of farmers or fishermen

is of

(b) its gross premium income, net of reinsurance ceded, for the year,

and, in computing the taxable income of the insurer for the taxation year, the insurer is deemed to have claimed or deducted in each of the taxation years preceding the year the greater of any amount it claimed or deducted or any amount it may have been entitled to claim or deduct under paragraphs 20(1)(a), 20(7)(c) and 138(3)(a) and section 140 of the federal Act to the extent that that amount does not exceed its taxable income otherwise determined for that preceding taxation year.

(2.2) Subsection (2.1) does not apply in respect of an insurer referred to in paragraph 149(1)(t) of the federal Act in respect of the taxable income of the insurer for a taxation year where more than 90% of the gross premium income, net of reinsurance ceded, of the insurer and all other insurers that were specified shareholders of the insurer or were related to the insurer or, where the insurer is a mutual corporation, all other insurers that were part of a group that controlled or were controlled by the insurer for the year was, in respect of the insurance of farm property, property used in fishing or residences of farmers or fishermen.

(c) *in subsection (3) by adding “other than as a result of its becoming or ceasing to be a corporation referred to in paragraph 149(1)(t) of the federal Act” before “, the following rules”.*

(2) *Subsection (1)(a) applies to taxation years beginning after June 17, 1987 and ending after December 31, 1987.*

(3) *Subsection (1)(b) and (c) apply to the 1989 and subsequent taxation years.*

18 *Section 37 is amended*

(a) *by adding “for a taxation year” before “as and when required”;*

(b) *in clause (a)(i) by adding “for the year” after “the tax”.*

(b) the corporation shall be deemed to have disposed, immediately before the time that is immediately before that time, of each property, other than, where, at that time, the corporation ceases to be exempt from tax under this Act on its taxable income, a Canadian resource property or a foreign resource property, that was owned by it immediately before that time for an amount equal to its fair market value at that time and to have reacquired the property at that time at a cost equal to that fair market value;

(c) if clause (b) applies in respect of depreciable property of the corporation and the capital cost of it to the corporation immediately before the disposition exceeds the fair market value of it at that time, for the purposes of section 8,

(i) the capital cost of the property to the corporation at that time shall be deemed to be the amount that was the corporation's capital cost of the property immediately before the disposition, and

(ii) the excess shall be deemed to have been allowed to the corporation in respect of the property in computing its income for taxation years ending before that time;

(d) notwithstanding section 111 of the federal Act, no amount is deductible in computing the corporation's taxable income for a taxation year ending after that time in respect of a non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year ending before that time to the extent that the loss could have been applied to reduce the corporation's taxable income for taxation years ending before that time.

18 Section 37 presently reads:

37 A corporation that has failed to file a return as and when required by this Act is liable to a penalty equal to the aggregate of

(a) an amount equal to 5% of the aggregate of

19 Section 38(1.1) is amended by striking out “estimated by it under section 36(3) for the year on or before the last day of the period ending 3 months after the close of that year” and substituting “for the year on or before the last day of the period ending 3 months after the close of the year”.

20(1) Section 38.1(1) is amended by striking out “as a consequence of the operation of section 26.1(14.1), 26.5(6.1), 26.6(5.1) or 30(8)”.

(2) Subsection (1) applies with respect to refunds for the 1988 and subsequent taxation years.

21(1) Section 39 is amended

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

(i) the tax that was unpaid when the return was required to be filed, and

(ii) the amount, if any, by which

(A) the aggregate of amounts paid or applied to the corporation under section 26.4 for the year

exceeds

(B) the aggregate of the royalty tax credit to which the corporation is entitled for the year and the amounts paid by the corporation under section 38(8) for the year on or before the day on which the return was required to be filed,

and

(b) the product obtained when 1% of the aggregate of the amounts referred to in clause (a)(i) and (ii) 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.

19 Section 38(1.1) presently reads:

(1.1) Notwithstanding subsection (1), if a corporation has deducted an amount under section 22 in computing the tax payable under Part 5 for the year and its taxable income for that year did not exceed \$500 000, it shall pay the amount of the tax payable estimated by it under section 36(3) for the year on or before the last day of the period ending 3 months after the close of that year.

20 Section 38.1(1) presently reads:

38.1(1) If at any time the Provincial Treasurer determines that as a consequence of the operation of section 26.1(14.1), 26.5(6.1), 26.6(5.1) or 30(8) an amount has been refunded to a corporation for a taxation year in excess of the amount to which it was entitled as a refund,

(a) the excess shall be deemed to be an amount that became payable by the corporation on the day on which the amount was refunded, and

(b) the taxpayer shall pay interest at the prescribed rate on the excess from the day it became payable to the day of payment.

21 Section 39(1), (1.1), (2), (4) and (6) presently read:

39(1) A corporation shall pay to the Provincial Treasurer in respect of a taxation year and in respect of the period beginning on the day on or before which the corporation is required to make a payment under section 38(1)(b), (1.1) or (3) and ending,

(a) if there is an overpayment for the year, on the first day in respect of which interest is computed on that overpayment under section 47(4), or

(b) in any other case, on the day on which the corporation's liability for tax for the year is extinguished

the amount, if any, by which

(c) interest at the prescribed rate on the amount of the corporation's tax for the year, computed from the beginning to the end of the period,

exceeds

(d) the aggregate of all amounts, each of which is interest at the prescribed rate on an amount paid by the corporation before the end of the period computed from the day that is the later of the beginning of the period and the day of payment to the end of the period.

(b) in subsection (1.1) by striking out all that portion preceding clause (a) and substituting the following:

(1.1) If at any time after the day on or before which a corporation is required to make a payment under section 38(8),

(c) in subsection (2) by striking out "which the corporation's return under section 36 for the year is filed" and substituting "or before which the corporation is required to make a payment under section 38(1)(b), (1.1) or (3)";

(d) by repealing subsection (2)(d) and substituting the following:

(d) all amounts, each of which is interest at the prescribed rate on the amount in respect of a month in the year that would have been determined under section 26.4(4) if "estimated" were struck out in clause (a)(i) and (ii) of that subsection.

(e) in subsection (4) by striking out "(1) or";

(f) by repealing subsection (6) and substituting the following:

39(1) A corporation shall pay to the Provincial Treasurer in respect of a taxation year and in respect of the period beginning on the day on which the corporation's return under section 36 for the year is filed and ending at a particular time, the amount, if any, by which

(a) the aggregate of all amounts, each of which is interest at the prescribed rate on tax or an instalment of tax for the year that the corporation was required to pay to the Provincial Treasurer before the end of the period, computed from the day that is the later of the beginning of the period and the day on or before which the tax or instalment was required to be paid to the end of the period,

exceeds

(b) the aggregate of all amounts, each of which is interest at the prescribed rate on an amount paid by the corporation at or before the end of the period and applied as at the particular time by the Provincial Treasurer to reduce the corporation's liability for an amount payable for the year computed from the day that is the later of the beginning of the period and the day of payment to the end of the period.

(1.1) If at any time after the day on which a corporation's return under section 36 for a taxation year is filed,

(a) the aggregate of the amounts paid by the Provincial Treasurer under section 26.4 for the year

exceeds the aggregate of

(b) the royalty tax credit for the year to which the corporation is entitled, and

(c) the aggregate of the amounts paid by the corporation before that time under section 38(8) for the year,

the corporation shall pay to the Provincial Treasurer interest at the prescribed rate on the excess computed for the period during which the excess is outstanding.

(2) In addition to the interest payable under subsection (1), a corporation shall pay to the Provincial Treasurer, in respect of a taxation year and in respect of the period beginning on the first day of the year and ending on the day on which the corporation's return under section 36 for the year is filed, the amount, if any, by which the aggregate of

(a) all amounts, each of which is interest at the prescribed rate on tax or an instalment of tax for the year that the corporation was required to pay to the Provincial Treasurer before the end of the period, computed from the day on or

(6) If a corporation is required to pay a penalty, the corporation shall pay the penalty to the Provincial Treasurer together with interest at the prescribed rate computed,

(a) in the case of a penalty payable by reason of section 37, from the day on or before which the corporation's return under section 36 for the taxation year in respect of which the penalty is payable was required to be filed to the day of payment,

(b) in the case of a penalty payable for a taxation year by reason of section 73.1, from the day on or before which the corporation is required under section 38 to pay the remainder of its tax for the year to the day of payment of the penalty, and

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

(2) Subsection (1)(a), (b), (c) and (e) apply to taxation years ending after a date to be prescribed by regulation made by the Lieutenant Governor in Council.

(3) Subsection (1)(d) applies to taxation years during which instalments were made in respect of months in 1990 and subsequent years.

(4) Subsection (1)(f) applies to penalties assessed after this Act is assented to.

22 *Section 41(5) is repealed and the following is substituted:*

(5) If the Provincial Treasurer makes a determination of an amount of a corporation's non-capital loss, net capital loss,

before which the tax or instalment was required to be paid to the end of the period, and

(b) all amounts, each of which is interest at the prescribed rate on an amount paid during the period by the Provincial Treasurer under section 26.4 for the year, computed from the day of payment to the end of the period,

exceeds the aggregate of

(c) all amounts, each of which is interest at the prescribed rate on an amount paid by the corporation at or before the end of the period and applied by the Provincial Treasurer to reduce the corporation's liability for an amount payable for the year computed from the day that is the later of the beginning of the period and the day of payment to the end of the period, and

(d) all amounts, each of which is interest at the prescribed rate on an amount in respect of a month in the year that is the proportion of the royalty tax credit to which the corporation is entitled for the year that the number of days in the month bears to the number of days in the year computed from the last day of the month to the end of the period.

(4) For the purposes of subsection (1) or (2), when a corporation is required to pay an instalment of tax for a taxation year computed by reference to a method described in section 38(1), it shall be deemed to have been liable to pay a part or instalment computed by reference to

(a) its tax payable under this Act for the year,

(b) its first instalment base for the year, or

(c) its 2nd instalment base and its first instalment base for the year

whichever method gives rise to the least amount to be paid by the corporation.

(6) If a corporation is required by section 37 to pay a penalty and fails to pay all or any part of the penalty as required, it shall pay to the Provincial Treasurer interest at the prescribed rate on the amount it failed to pay computed from the day on or before which the corporation's return for the taxation year in respect of which the penalty is payable was required to be filed to the day of payment.

22 Section 41(5) presently reads:

(5) If the Provincial Treasurer makes a determination of the amount of a corporation's non-capital loss, net capital loss,

restricted farm loss, farm loss or limited partnership loss for a taxation year, as the case may be, subject to the corporation's rights of objection and appeal in respect of the determination and subject to any redetermination by the Provincial Treasurer, the determination is binding on both the Provincial Treasurer and the corporation for the purposes of calculating the income of, taxable income of, amount taxable in Alberta in respect of, tax or other amount payable by or amount refundable to the corporation for any taxation year.

23(1) Section 43(1) is amended

(a) by striking out "or" at the end of clause (b)(i), by striking out "and" at the end of clause (b)(ii) and by adding the following after clause (b)(ii):

(iii) there is reason, as a consequence of a transaction involving the corporation and a non-resident person with whom it was not dealing at arm's length, to assess or reassess the corporation's tax for any relevant taxation year, or

(iv) there is reason, as a consequence of an additional payment or reimbursement of any income or profits tax to or by the government of a country other than Canada, to assess or reassess the corporation's tax for any relevant taxation year,

and

(b) by striking out all that portion following clause (c) and substituting the following:

reassess or make additional assessments, or assess tax, interest or penalties under this Act or 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

(d) the assessment or reassessment referred to in clause (b)(i) or (ii),

(e) the transaction referred to in clause (b)(iii), or

(f) the additional payment or reimbursement referred to in clause (b)(iv).

restricted farm loss, farm loss or limited partnership loss for a taxation year, as the case may be, subject to the corporation's rights of objection and appeal in respect of the determination and subject to any redetermination by the Provincial Treasurer, the determination is binding on both the Provincial Treasurer and the corporation for the purposes of calculating the taxable income of the corporation in any other year under this Act or under the old Act.

23 Section 43(1) presently reads:

43(1) The Provincial Treasurer may, at any time, assess tax, interest or penalties under this Act or notify in writing any corporation that filed a return for a taxation year that no tax is payable for a taxation year and may determine the entitlement to and the amount, if any, of a corporation's refundable tax credit, and may

(a) at any time, if the corporation 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), if

(i) an assessment or reassessment of the tax of the corporation was required pursuant to section 44 or would have been required if the corporation had claimed an amount by filing the prescribed form referred to in that section on or before the day referred to in that section, or

(ii) there is reason, as a consequence of the assessment or reassessment of another corporation's tax pursuant to this clause or section 44, to assess or reassess the corporation's tax for any relevant year, and

(c) in any case other than those described in clauses (a) and (b), within

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

(ii) 12 months after

(2) Subsection (1) applies to assessments relating to transactions entered into, payments made and reimbursements received after 1987.

24(1) Section 47 is amended

(a) in subsection (2.1) by striking out “with all due dispatch repay all amounts paid on account of the amount assessed or surrender security accepted for the amount assessed” and substituting “, where no authorization has been granted under section 60.2 in respect of the amount assessed, with all due dispatch repay all amounts paid on account of that amount or surrender security accepted for that amount”;

(b) by repealing subsections (2.2) and (2.3) and substituting the following:

(2.2) Notwithstanding subsection (2.1), where, on application by the Provincial Treasurer made within 45 days after the receipt by him of a written request by a corporation for repayment of an amount or surrender of a security, a judge of the court is satisfied that there are reasonable grounds to believe that the collection of all or any part of an amount assessed in respect of the corporation would be jeopardized by the repayment of the amount or the surrender of the security to the corporation under subsection (2.1), he shall order 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 or make such other order as he considers reasonable in the circumstances.

(2.3) The Provincial Treasurer shall give 6 clear days’ notice of an application under subsection (2.2) to the corporation in respect of which the application is made.

(A) an assessment, reassessment or additional assessment, or

(B) the confirmation of an assessment, reassessment or additional assessment

under the federal Act or a statute of a province of Canada that imposes a tax similar to the tax imposed under this Act,

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).

24 Section 47(2.1), (2.2), (2.3) and (4) presently read:

(2.1) Subject to subsection (2.2), if a corporation

(a) has under section 48 served a notice of objection to an assessment of tax, interest under section 39(1), (2) or (6) or a penalty 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 the assessment, or

(b) has appealed to the court from an assessment of tax, interest under section 39(1), (2) or (6) or a penalty,

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.

(2.2) If it may reasonably be considered that collection of all or any part of an amount assessed in respect of a corporation would be jeopardized by a repayment of an amount or surrender of

(2.4) Where the Provincial Treasurer makes an application under subsection (2.2), section 60.2(4), (10), (12) and (13) apply in respect of the application.

(c) in subsection (4) by adding the following after clause (a):

(a.1) the day on or before which the corporation is required to make a payment under section 38(1)(b), (1.1), (3) or (8),

(2) *Subsection (1)(c) applies to taxation years ending after a date to be prescribed by regulation made by the Lieutenant Governor in Council.*

25 *Section 60.2 is repealed and the following is substituted:*

60.2(1) In this section, “judge” means a judge of the court.

(2) Notwithstanding section 60.1, where, on ex parte application by the Provincial Treasurer, a judge is satisfied that there are reasonable grounds to believe that the collection of all or any part of an amount assessed in respect of a corporation would be jeopardized by a delay in the collection of it, he shall, on such terms as he considers reasonable in the circumstances, authorize

security to the corporation under subsection (2.1), 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 corporation by personal service or by registered letter addressed to the corporation at its latest known address.

(2.3) If, pursuant to subsection (2.2), the Provincial Treasurer has given notice to the corporation of a direction, section 60.2(2) to (7) are applicable in respect of the direction.

(4) If under this section an amount in respect of a taxation year is refunded or repaid to a corporation or applied to another liability, the Provincial Treasurer shall pay or apply interest on the amount at the prescribed rate for the period beginning on the day that is the latest of

(a) in the case of a refund or application of an overpayment, the day the overpayment arose,

(b) the day on which the return of the corporation for the year was filed, and

(c) in the case of a repayment of an amount in controversy, the day an overpayment equal to the amount of the repayment would have arisen if the aggregate of all amounts payable on account of the corporation's liability under this Act for the year were the amount by which

(i) the lesser of the aggregate of all amounts paid or applied on account of its liability under this Act for the year and the aggregate of all amounts assessed by the Provincial Treasurer as payable under this Act by the corporation for the year

exceeds

(ii) the amount repaid,

and ending on the day the amount is refunded, repaid or applied.

25 Section 60.2 presently reads:

60.2(1) Notwithstanding section 60.1, if it may reasonably be considered that collection of an amount assessed in respect of a corporation 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 corporation at its latest known address, so advised the corporation and directed the corporation 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 60.1(1)(a) to (c) with respect to that amount or the part of that amount.

the Provincial Treasurer to take forthwith any of the actions described in section 60.1(1) with respect to the amount.

(3) An authorization under subsection (2) in respect of an amount assessed in respect of a corporation may be granted by a judge notwithstanding that a notice of assessment in respect of that amount has not been sent to the corporation at or before the time the application is made where the judge is satisfied that the receipt of the notice of assessment by the corporation would likely further jeopardize the collection of the amount, and for the purposes of sections 57, 58 and 60, the amount in respect of which an authorization is so granted is deemed to be an amount payable under this Act.

(4) Statements contained in an affidavit filed in the context of an application under this section may be based on belief with the grounds for it.

(5) An authorization granted under this section in respect of a corporation shall be served by the Provincial Treasurer on the corporation within 72 hours after it is granted, except where the judge orders the authorization to be served at some other time specified in the authorization, and where a notice of assessment has not been sent to the corporation at or before the time of the application, the notice of assessment shall be served together with the authorization.

(6) For the purposes of subsection (5), service on a corporation shall be effected by

- (a) personal service on the corporation, or
- (b) service in accordance with directions, if any, of a judge.

(7) Where service on a corporation cannot reasonably be effected as and when required under this section, the Provincial Treasurer may, as soon as practicable, apply to a judge for further direction.

(8) Where a judge has granted an authorization under this section in respect of a corporation, the corporation may, on 6 clear days' notice to the Deputy Attorney General, apply to a judge to review the authorization.

(9) An application under subsection (8) shall be made

- (a) within 30 days from the day on which the authorization was served on the corporation in accordance with this section, or

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

(a) on 3 days' notice of motion to the Deputy Attorney General, apply to a judge of 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 it 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 any 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 corporation, be heard in private, if the corporation establishes to the satisfaction of the judge that the circumstances of the case justify private proceedings.

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

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

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

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

(10) An application under subsection (8) may, on the application of the corporation, be heard in private if the corporation establishes to the satisfaction of the judge that the circumstances of the case justify private proceedings.

(11) On an application under subsection (8), the judge shall determine the question summarily and may confirm, set aside or vary the authorization and make any other order as he considers appropriate.

(12) Where any question arises as to the course to be followed in connection with anything done or being done under this section and there is no direction in this section with respect to it, a judge may give such direction with regard to it as, in his opinion, is appropriate.

(13) No appeal lies from an order of a judge made pursuant to subsection (11).

26(1) The following is added after section 73:

73.1 A corporation that is liable to pay an amount under section 39(2) in respect of a taxation year shall pay in addition to that amount a penalty equal to 50% of the amount, if any, by which

(a) the interest payable by it under section 39(2) for the year exceeds the greater of

(b) \$1000, and

(c) 25% of the interest that would be computed under section 39(2) if that subsection were read without reference to clause (c).

(2) Subsection (1) applies with respect to amounts payable under section 39(2) for taxation years commencing after a date prescribed by regulation made by the Lieutenant Governor in Council.

27 Section 75 is amended by striking out "evaded or the difference" and substituting "evaded and the difference".

26 Penalty for late or deficient instalments.

27 Section 75 presently reads in part:

75 A person who

(b) destroys, alters, mutilates, secretes or otherwise disposes of the records or books of account of a corporation in order to assist in the evasion or attempted evasion of payment of tax imposed by this Act on a corporation or to assist a

28(1) Section 77 is amended

(a) in subsection (1) by striking out “subsections (2)” and substituting “subsections (1.1), (2)”;

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

(1.1) Subsection (1) does not apply if the information is in such a form that it cannot be associated with and cannot identify, directly or indirectly, a particular corporation.

(c) in subsection (2)(a.1) by striking out “section 26.4(1)” and substituting “section 26.4”;

(d) in subsection (2)(b) by striking out “evaluating and formulating tax policy” and substituting “tax and fiscal policy analysis”.

(2) Subsection (1)(c) applies after December 31, 1989.

corporation in claiming or attempting to claim a refundable tax credit greater than that to which the corporation is entitled,

is guilty of an offence and liable to a fine of not more than 200% of the tax sought to be evaded or the difference between the amount of the refundable tax credit claimed and the amount of the refundable tax credit to which the corporation is entitled or to that fine and imprisonment for a term not exceeding 2 years.

28 Section 77(1) and (2) presently read:

77(1) Subject to subsections (2) and (2.1), a person engaged or employed or formerly engaged or employed in the administration of this Act who

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

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

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

is guilty of an offence.

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

(a) statistical information that is provided to the Alberta Bureau of Statistics by the Provincial Treasurer to be used by the Bureau in accordance with section 3 of the Statistics Bureau Act,

(a.1) information to the Department of Consumer and Corporate Affairs that a return under this Act has been filed by any person or an application under section 26.4(1) has been made by any person,

(a.2) information obtained under this Act as to the name, address or type of business of a taxpayer by the Provincial Treasurer to a person employed by a department or agency of the Government of Alberta solely for the purpose of enabling that department or agency to obtain statistical data for research and analysis,

29 Section 81(3) is amended by striking out “5 years” and substituting “8 years”.

30 Section 82(5) is amended

(a) by adding “or a notice of determination” after “particular taxation year”;

(b) by adding “or determination” after “appeal from the assessment”.

31 Section 84(1) is amended by striking out “or notification described in section 43(1), 47(2.2) or 60.2(1)” and substituting “of assessment, notice of determination or any other notice required to be given by the Provincial Treasurer under this Act”.

32(1) Section 92 is amended

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

92(1) Subject to subsection (1.1), sections 1 to 85 and Part 10 do not apply for the purposes of this Part.

(1.1) Subject to subsection (2), sections 1(2)(g) and (i), 1(3) and (4), 39(6), 41(1), 42, 43, 45, 46, 47(2) to (4) and (4.2) to (5), 48 to 72, 73 and 74 to 84 apply for the purposes of this Part.

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

(c) information between the Provincial Treasurer and a corporation respecting the tax cost of property acquired by the corporation in any case where, by reason of any provision of this Act or the federal Act, that cost is other than its actual cost.

29 Section 81(3) presently reads:

(3) An information or complaint in respect of an offence under this Act may only be laid or made on or before a day 5 years from the time when the matter of the information or complaint arose.

30 Section 82(5) presently reads:

(5) An affidavit of an officer of the Treasury Department setting out that he has charge of the appropriate records and has knowledge of the practice of the Department and 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 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 shall be admitted in evidence as prima facie proof of the statements contained in the notice.

31 Section 84(1) presently reads:

84(1) For the purposes of this Act the day of mailing of any notice or notification described in section 43(1), 47(2.2) or 60.2(1) shall, in the absence of any evidence to the contrary, be deemed to be the day appearing from that notice or notification to be the date thereof.

32 Section 92 presently reads:

92(1) Subject to subsections (2) and (3), sections 39(6), 41(1), 42, 43, 45, 46, 47(2) to (4) and (4.2) to (5) and 48 to 84 apply to this Part.

(2) In the application to this Part of the sections referred to in subsection (1),

(a) sections 2(8) and 4.1 do not apply,

(b) section 43(1) shall be read as if clauses (b) and (c)(ii) of that subsection were struck out,

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

(2) In the application to this Part of the sections referred to in subsection (1.1)

(a) section 43(1) shall be read as if clauses (b) and (c)(ii) of that section were struck out, and

(b) a liability of an insurance company that may be reduced by the application of an amount to the liability by the Provincial Treasurer pursuant to the application of section 47 includes any liability under this Act.

(c) in subsection (2) as it is enacted by this Act, by striking out “and” at the end of clause (a), by adding “and” at the end of clause (b) and by adding the following after clause (b):

(c) section 47(4) shall be read as if clause (a.1) read as follows:

(a.1) March 15 in the year following the taxation year,

(2) Subsection (1)(c) applies to taxation years ending after a date prescribed by regulation made by the Lieutenant Governor in Council.

33(1) The following is added after section 92:

PART 10 FINANCIAL INSTITUTIONS CAPITAL TAX

93(1) In this Part,

(a) “amount taxable” means

(i) in the case of a resident corporation, the taxable paid-up capital of the corporation, or

(ii) in the case of a non-resident corporation, the taxable paid-up capital employed in Canada of the corporation,

at the end of the taxation year;

(b) “bank” means a bank to which the *Bank Act* (Canada) or the *Quebec Savings Banks Act* (Quebec) applies;

(c) section 43(2) shall be read as if the reference to the corporation's income were to the "amount of premiums receivable" by the corporation as defined in section 87(3),

(d) a reference to a corporation shall be read as a reference to an insurance company,

(e) the amount of refundable tax credits to which an insurance company is entitled for a taxation year is deemed to be nil, and

(f) all references to returns, information, liabilities, tax, interest and penalties or amounts in respect of liabilities, tax, interest and penalties are deemed to be references to returns, information, liabilities, tax, interest and penalties under this Part or amounts in respect of liabilities, tax, interest and penalties under this Part, except as provided in subsection (3)(b).

(3) In the application of section 47 for the purposes of this Part

(a) "overpayment" of an insurance company for a taxation year means the amount, if any, by which all amounts paid on account of the insurance company's liability under this Part for a taxation year exceeds all amounts payable by the insurance company under this Part in respect of the year, and

(b) a liability of an insurance company that may be reduced by the application of an amount to the liability by the Provincial Treasurer includes any liability under this Act.

33 Financial Institutions Capital Tax.

(c) “body corporate” means any body corporate with or without share capital and wherever or however incorporated;

(d) “deposit” means, subject to subsection (2), a sum of money that

(i) is paid on terms that are not referable to the provision of property or services or to the giving of security,

(ii) is payable to the person making it

(A) on demand,

(B) after notice, or

(C) on a fixed date or on the expiry of a specified term,

and

(iii) is paid or payable in accordance with prescribed requirements,

but does not include payments of sums of money that are prescribed;

(e) “deposit-taking business” means, subject to subsection (3),

(i) the lending, in the ordinary course of business, of money received by way of deposit, or

(ii) any other activity that is financed wholly or to any material extent out of the capital of, or the interest on, money received by way of deposit;

(f) “loan and trust corporation” means

(i) a body corporate, in this clause referred to as a “loan corporation”, incorporated or operated for the purpose of carrying on a deposit-taking business but does not include a bank, a treasury branch, an insurer, a trust corporation or a credit union,

(ii) a body corporate, in this clause referred to as a “trust corporation”, incorporated or operated for the purposes of

(A) offering its services to the public as executor, administrator, trustee, bailee, agent, receiver, liquidator, assignee, guardian or trustee of a minor’s

estate or of the estate of a mentally incompetent person, and

(B) carrying on a deposit-taking business,

but does not include a bank, a treasury branch, an insurer, a corporation referred to in subclause (i) or a credit union, or

(iii) a body corporate incorporated or operated for the purposes of offering the services of a loan corporation and a trust corporation;

(g) “non-resident corporation” means a corporation that is not resident in Canada at the end of its taxation year;

(h) “other surplus” includes

(i) any amount by which the value of an asset of a corporation, as carried on its account books or on its balance sheet, is in excess of the cost of the asset, or

(ii) any amount by which the value of an asset of a corporation has been written down and deducted from its income or retained earnings, where that amount

(A) is not deductible under Part 2, or

(B) is deductible under Part 2 by virtue of the application of paragraph 20(1)(n) or subparagraph 40(1)(a)(iii) of the federal Act,

but, unless otherwise prescribed to be included, does not include any amount by which the value of an asset of a corporation has been written down and deducted from its income or retained earnings where that amount is deductible for the purposes of Part 2 under any provision of the federal Act other than those referred to in paragraph (B);

(i) “resident corporation” means a corporation that is resident in Canada at the end of its taxation year;

(j) “taxable paid-up capital” means the taxable paid-up capital of a resident corporation at the end of a taxation year computed in accordance with section 95;

(k) “taxable paid-up capital employed in Canada” means the taxable paid-up capital employed in Canada by a non-resident corporation at the end of a taxation year, computed in accordance with section 96;

(l) "total assets" includes

(i) any amount by which the value of an asset of a corporation, as carried on its account books or on its balance sheet, is in excess of the cost of the asset, or

(ii) any amount by which the value of an asset of a corporation has been written down and deducted from its income or retained earnings, where that amount

(A) is not deductible under Part 2, or

(B) is deductible under Part 2 by virtue of the application of paragraph 20(1)(n) or subparagraph 40(1)(a)(iii) of the federal Act,

but, unless otherwise prescribed to be included, does not include any amount by which the value of an asset of a corporation has been written down and deducted from its income or retained earnings where that amount is deductible for the purposes of Part 2 under any provision of the federal Act other than those referred to in paragraph (B).

(2) For the purposes of subsection (1)(d)(i), money is paid on terms that are referable to the provision of property or services or to the giving of security if

(a) it is paid by way of advance or part payment for the sale, lease or other provision of property or services of any kind and is repayable only in the event that the property or services are not in fact sold, leased or otherwise provided,

(b) it is paid by way of security for payment for the provision of property or services of any kind provided or to be provided by the person by whom or on whose behalf the money is accepted, or

(c) it is paid by way of security for the delivery or return of any property, whether in a particular state of repair or otherwise.

(3) Notwithstanding subsection (1)(e), a person shall not be considered to be carrying on a deposit-taking business if

(a) the person does not hold himself out as accepting deposits on a day to day basis, and

(b) any deposits that are accepted are accepted only on particular occasions and on a basis that is ancillary to another business purpose, whether or not in connection with the issue of debentures or other securities.

94(1) Every corporation whose taxation year ends after March 31, 1990

(a) that has a permanent establishment in Alberta, and

(b) that is a bank, a loan and trust corporation or a credit union

at any time in a taxation year is liable to pay a tax under this Part for that taxation year computed on the amount taxable of the corporation.

(2) Notwithstanding subsection (1), no tax is payable under this Part in respect of a particular taxation year by a corporation that was throughout the taxation year a corporation referred to in section 149 of the federal Act other than a prescribed corporation.

(3) If at any time, in this subsection referred to as “that time”, a corporation becomes or ceases to be a corporation referred to in section 149 of the federal Act, the taxation year of the corporation that would otherwise have included that time is deemed to have ended immediately before that time and a new taxation year is deemed to have commenced at that time.

95(1) The taxable paid-up capital of a resident corporation that is a bank for a particular taxation year is the aggregate, computed at the end of the taxation year, of

(a) its capital stock,

(b) its contributed surplus,

(c) its retained earnings,

(d) its general reserve, and

(e) any tax paid appropriations included in its appropriation for contingencies account,

as calculated pursuant to paragraph 215(3)(c) or (d) and Schedules XIII or XIV, as the case may be, of the *Bank Act* (Canada) or paragraph 53(2)(d) and Schedule D of the *Quebec Savings Banks Act* (Quebec) on an unconsolidated basis.

(2) The taxable paid-up capital of a resident corporation that is a loan and trust corporation or a credit union for a particular taxation year is the aggregate computed at the end of the taxation year of

- (a) its capital stock,
- (b) its earned, capital and other surpluses, and
- (c) all its reserves except a reserve for the creation of which an amount is permitted as a deduction in computing income under Part 2 unless otherwise prescribed.

96(1) The taxable paid-up capital employed in Canada of a non-resident corporation for a particular taxation year is the greater of

- (a) the product of 12.5 and its taxable income earned in Canada in the taxation year determined for the purposes of the federal Act, and
- (b) subject to subsection (2), the amount by which the total assets of the corporation in Canada at the end of the taxation year exceed the amount of the indebtedness of the corporation at the end of that year relating to its permanent establishments in Canada.

(2) The amount of indebtedness of the corporation referred to in subsection (1)(b) does not include

- (a) any amounts that are advanced or loaned to its permanent establishments in Canada
 - (i) by the corporation,
 - (ii) by its shareholders, directly or indirectly,
 - (iii) by any person related to any of its shareholders, or
 - (iv) by any other corporation,

or

- (b) any other indebtedness that is represented by bonds, bond mortgages, debentures, mortgages, lien notes or any other securities to which any part of the property in Canada is subject.

(3) The indebtedness of the corporation referred to in subsection (2)(b) does not include a trade account payable by the

corporation and reported as a current liability, other than an indebtedness to shareholders or to any persons related to any of its shareholders, where the trade account

(a) is outstanding for more than 90 days at the end of the taxation year, or

(b) is a portion of a long-term debt to another corporation.

(4) The taxable paid-up capital employed in Canada of a non-resident corporation does not include any capital invested in a ship or aircraft operated by the corporation in Canada in the taxation year where the corporation is entitled under paragraph 81(1)(c) of the federal Act in computing its income for the taxation year to exclude the income earned in the taxation year in Canada from the operation of the ship or aircraft.

97 The tax payable under this Part by a corporation is 2% of the difference between

(a) its amount taxable, and

(b) that portion of the amount taxable of the corporation that is used by the corporation in jurisdictions outside Alberta as determined in accordance with the prescribed rules.

98 Where a corporation has a taxation year part of which is before April 1, 1990 and part of which is after March 31, 1990, the tax payable under this Part is equal to that proportion of the tax otherwise payable under this Part that the number of days in the taxation year after March 31, 1990 is of the number of days in the taxation year.

99 Notwithstanding section 97, the tax payable under this Part by a corporation that is a credit union shall be the lesser of

(a) the tax otherwise payable under this Part, and

(b) \$100.

100(1) Where a corporation has a taxation year of less than 365 days, the tax payable under this Part by the corporation for that taxation year is equal to that proportion of the tax otherwise payable under this Part for the taxation year that the number of days in the taxation year is of 365.

(2) Where a corporation ceases to have a permanent establishment in Alberta during a taxation year, the taxation year is deemed to consist of the number of days in the year during

which it had a permanent establishment in Alberta, and subsection (1) applies to that taxation year.

(3) Where a corporation commences having a permanent establishment in Alberta during a taxation year, the taxation year is deemed to consist of the number of days in the year during which it had a permanent establishment in Alberta, and subsection (1) applies to that taxation year.

101(1) Every corporation that is liable to pay tax under this Part and whose taxation year commences after March 31, 1990 shall, in respect of the taxation year, pay to the Provincial Treasurer

(a) an amount equal to 1/12 of its tax payable under this Part for the year as estimated by it on or before the last day of each month in the year, and

(b) the remainder of the tax payable by it under this Part for the year,

(i) subject to subclause (ii), on or before the last day of the 2nd month following the year, or

(ii) if section 38(1.1) applies to the corporation for the purposes of Parts 1 to 8 in respect of the taxation year, on or before the last day of the 3rd month following the year.

(2) Notwithstanding subsection (1), a credit union whose taxation year commences after March 31, 1990 shall, in respect of the taxation year, pay to the Provincial Treasurer the tax payable by it under this Part for the year on or before the last day of the 3rd month following the year.

(3) A corporation that is liable to pay tax under this Part and has a taxation year part of which is before April 1, 1990 and part of which is after March 31, 1990 shall pay to the Provincial Treasurer the tax payable for that year on or before the last day of the 2nd month following that year.

102(1) A corporation that is liable to pay tax for a taxation year under this Part shall file a return with the Provincial Treasurer in the prescribed form and containing the prescribed information within 6 months from the end of the taxation year.

(2) Whether or not a corporation is liable to pay tax under this Part for a taxation year and whether or not a return has been filed under subsection (1) or (4), a corporation shall, on receipt of a demand served personally or by certified mail or registered letter from the Provincial Treasurer, file with the Provincial Treasurer within any reasonable time stipulated by the Provincial

Treasurer in the demand a return for the taxation year designated in the demand in the prescribed form and containing the prescribed information.

(3) A return required to be filed under this section

(a) shall include an estimate of the tax payable, if any, and

(b) shall be signed by a person duly authorized by the board of directors or other governing body of the corporation.

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

103 A corporation that has failed to file a return as and when required by this Part 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 day on which the return was required to be filed and the day on which the return was filed.

104(1) A corporation shall pay to the Provincial Treasurer in respect of a taxation year and in respect of the period beginning on the day on which the corporation is required to make a payment under section 101(1)(b) or (2) and ending

(a) if there is an overpayment for the year, on the first day in respect of which interest is computed on that overpayment under section 47(4), or

(b) in any other case, on the day on which the corporation's liability for tax under this Part for the year is extinguished,

the amount, if any, by which

(c) interest at the prescribed rate on the amount of the corporation's tax for the year computed from the beginning to the end of the period,

exceeds

(d) the aggregate of all amounts, each of which is interest at the prescribed rate on an amount paid by the corporation before the end of the period computed from the day that is the later of the beginning of the period and the day of payment to the end of the period.

(2) In addition to the interest payable under subsection (1), a corporation shall pay to the Provincial Treasurer in respect of a taxation year and in respect of the period beginning on the first day of the year and ending on the day on or before which the corporation is required to make a payment under section 101(1)(b) the amount, if any, by which the aggregate of

(a) all amounts, each of which is interest at the prescribed rate on tax or an instalment of tax for the year that the corporation was required to pay to the Provincial Treasurer before the end of the period computed from the day on or before which the tax or instalment was required to be paid to the end of the period,

exceeds

(b) all amounts, each of which is interest at the prescribed rate on an amount paid by the corporation at or before the end of the period and applied by the Provincial Treasurer to reduce the corporation's liability for an amount payable for the year computed from the day that is the later of the beginning of the period and the day of payment to the end of the period.

105(1) Subject to subsection (2), sections 1 to 85 and Part 9 do not apply for the purposes of this Part.

(2) Subject to subsection (3), sections 1(1), 1(2)(c), (d), (e), (f), (g), (i), 1(3) and (4), 2(1) to (3) and (8), 39(6), 41(1), 42, 43, 45, 46, 47(2) to (4) and (4.2) to (5), 48 to 72 and 73 to 84 apply to this Part.

(3) In the application to this Part of the sections referred to in subsection (2),

(a) section 43(1) shall be read as if clauses (b) and (c)(ii) of that subsection were struck out,

(b) a liability of a corporation that may be reduced by the application of an amount to the liability by the Provincial Treasurer pursuant to the application of section 47 includes any liability under this Act,

(c) section 47(4) applies as if clause (a.1) came into force on April 1, 1990, and

(d) section 73.1 applies with respect to amounts payable under section 104(2) after March 31, 1990.

(2) Subsection (1) is deemed to come into force on April 1, 1990.

34 Section 16(2) of the Alberta Corporate Income Tax Amendment Act, 1985 is repealed and the following is substituted:

(2) Subsection (1)(a) applies to taxation years commencing on or after January 1, 1984.

(2.1) Subsection (1)(b) applies to 1983 and subsequent taxation years.

34 Section 16 of the Alberta Corporate Income Tax Amendment Act, 1985 presently reads:

16(1) Section 47 is amended

(a) in subsection (2) by striking out "4 years" and substituting "3 years";

(b) in subsection (2)(b)(i) by striking out "7 years" and substituting "6 years";

(c) in subsection (3) by adding "or repayment" after "refund";

(d) by adding the following after subsection (4.3):

(4.4) Where the Court of Queen's Bench, 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 by a corporation, or a refundable tax credit payable to a corporation under this Act,

(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, or to pay a refundable tax credit,

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

(d) where the assessment has been referred back to him, reconsider the assessment and make a reassessment in accordance with the decision of the Court,

(e) refund any overpayment resulting from the variation, vacation or reassessment, unless otherwise directed in writing by the taxpayer, and

(f) where clause (c) applies, repay any tax, interest or penalties, or pay any refundable tax credit as ordered,

35 In the following provisions, "Alberta Corporate Income Tax Act" is struck out wherever it occurs and "Alberta Corporate Tax Act" is substituted:

Act	Section
Alberta Income Tax Act	1(1)(p.1), 11(1.2), 12.1
Alberta Stock Savings Plan Act	22
Insurance Act	220(9)
Petroleum Incentives Program Act	12(2)
Proceedings Against the Crown Act	2
Small Business Equity Corporations Act	1(o), 21(3)(c)
Utility Companies Income Tax Rebates Act	1(c)

and the Provincial Treasurer may repay any tax, interest or penalties, pay any refundable tax credit or surrender any security accepted therefor by him to any other corporation that 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.

(2) Subsection (1)(a) and (b) apply to 1983 and subsequent taxation years.

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

35 Consequential amendments.