

1992 BILL 39

Fourth Session, 22nd Legislature, 41 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 39

**ALBERTA CORPORATE TAX
AMENDMENT ACT, 1992**

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 39

1992

ALBERTA CORPORATE TAX AMENDMENT ACT, 1992

(Assented to _____, 1992)

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

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

*2 Section 1(2)(g) is amended by repealing subclause (i) and
substituting the following:*

- (i) with respect to a form, the information to be given
on a form or the manner of filing a form, authorized
by the Provincial Treasurer,*
- (i.1) with respect to the manner of making or filing an
election, authorized by the Provincial Treasurer, or*

3 Section 2 is amended

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

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

Explanatory Notes

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

2 Section 1(2)(g) presently reads:

(2) In this Act and in the application of the provisions of the federal Act and regulations made under that Act that are by this Act made applicable for the purposes of this Act,

(g) "prescribed" means

(i) with respect to a form or the information to be given on a form, prescribed by the Provincial Treasurer, or

(ii) in any other case, prescribed by regulation;

3 Section 2(7) presently reads:

(7) A registered pension fund or plan that has been accepted for registration by the Minister shall be deemed to have been accepted for registration by the Provincial Treasurer.

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

(b) *by repealing subsection (7).*

4(1) Section 6 is amended by striking out the portion following clause (d) and substituting the following:

and for the purposes of this Act,

- (e) where an amount is determined under clause (d) for the year in respect of the corporation, the corporation's income for the year is the amount so determined, and
- (f) in any other case, the corporation shall be deemed to have income for the year in an amount equal to zero.

(2) Subsection (1) applies to the 1990 and subsequent taxation years.

4 Section 6 presently reads:

6 The income of a corporation for a taxation year is its income for the year determined by the following rules:

(a) determine the aggregate of amounts each of which is the corporation's income for the year (other than a taxable capital gain from the disposition of a property) from a source inside or outside Canada, including, without restricting the generality of the foregoing, its income for the year from each business and property;

(b) determine the amount, if any, by which

(i) the aggregate of its taxable capital gains for the year from dispositions of property other than listed personal property, and its taxable net gain for the year from dispositions of listed personal property,

exceeds

(ii) the amount, if any, by which its allowable capital losses for the year from dispositions of property other than listed personal property exceed its allowable business investment losses for the year;

(c) determine the amount, if any, by which the aggregate determined under clause (a) plus the amount determined under clause (b) exceeds the aggregate of the deductions permitted by Division 4 of this Part in computing the corporation's income for the year (except such of or such part of those deductions, if any, as have been taken into account in determining the aggregate referred to in clause (a));

(d) determine the amount, if any, by which the remainder determined under clause (c) exceeds the aggregate of amounts each of which is its loss for the year from a business or property or its allowable business investment loss for the year;

5(1) Section 7(4) is amended

- (a) by adding “either directly or indirectly,” after “permit the deduction”;*
- (b) by adding “directly or indirectly” after “amount has been”;*
- (c) by adding “for the year or any preceding taxation year” before “under, in accordance”;*
- (d) by striking out “by virtue of” and substituting “by reason of”.*

(2) Subsection (1) applies to the 1990 and subsequent taxation years.

6 Section 18(1.1) is amended by striking out “or 22.1” and substituting “, 22.1 or 22.2”.

7(1) The following is added after section 22.1:

Manufacturing
and
processing
profits
deduction

22.2(1) In this section, except as otherwise provided in subsections (7) and (8),

- (a) “adjusted business income” of a corporation for a taxation year has the meaning assigned to it by section 5202 of the federal regulations;
- (b) “Alberta cost of manufacturing and processing capital” of a corporation for a taxation year means 100/85 of that portion of the cost of capital of the corporation for that year that reflects the extent to which each property included in that calculation was used directly in qualified activities of the corporation during the year, but the amount so calculated shall not exceed the cost of capital of the corporation for the year;

and the remainder, if any, obtained under clause (d) is the corporation's income for the year.

5 Section 7(4) presently reads:

(4) Unless a contrary intention is evident, no provision of this Act shall be read or construed to require the inclusion or to permit the deduction, in computing the income of a corporation for a taxation year or its income or loss for a taxation year from a particular source or from sources in a particular place, of any amount to the extent that that amount has been included or deducted, as the case may be, in computing such income or loss under, in accordance with or by virtue of any other provision of this Act.

6 Section 18(1.1) presently reads:

(1.1) There may be added to a corporation's taxable income otherwise determined for a taxation year any amount up to the amount added by the corporation under section 110.5 of the federal Act to the extent that the addition does not increase an amount deductible by the corporation under section 22 or 22.1 for the year.

7 Manufacturing and processing profits deduction.

- (c) "Alberta cost of manufacturing and processing labour" of a corporation for a taxation year means 100/75 of that portion of the cost of labour of the corporation for that year that reflects the extent to which
- (i) the salaries and wages included in that calculation were paid or payable to persons for the portion of their time that they were directly engaged in qualified activities of the corporation during the year, and
 - (ii) the other amounts included in that calculation were paid or payable to persons for the performance of functions that would be directly related to qualified activities of the corporation during the year if those persons were employees of the corporation,
- but the amount so calculated shall not exceed the cost of labour of the corporation for the year;
- (d) "Canadian investment income" of a corporation for a taxation year has the meaning assigned to it by subsection 129(4) of the federal Act;
- (e) "cost of capital" of a corporation for a taxation year has the meaning assigned to it by section 5202 of the federal regulations;
- (f) "cost of labour" of a corporation for a taxation year has the meaning assigned to it by section 5202 of the federal regulations;
- (g) "foreign investment income" of a corporation for a taxation year has the meaning assigned to it by subsection 129(4) of the federal Act;
- (h) "manufacturing or processing" does not include

- (i) farming or fishing,
- (ii) logging,
- (iii) construction,
- (iv) operating an oil or gas well, extracting petroleum or natural gas from a natural accumulation of it 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 located in Canada to any stage that is not beyond the prime metal stage or its equivalent,
- (vii) processing iron ore from a mineral resource located in Canada to any stage that is not beyond the pellet stage or its equivalent,
- (vii.1) processing tar sands from a mineral resource located in Canada 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

- (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;
- (i) “qualified activities” means
 - (i) any of the following activities when they are performed in Alberta in connection with manufacturing or processing, not including the activities listed in clause (h)(i) to (x), in Alberta of goods for sale or lease:
 - (A) engineering design of products and production facilities;
 - (B) receiving and storing of raw materials;
 - (C) producing, assembling and handling of goods in process;
 - (D) inspecting and packaging of finished goods;
 - (E) line supervision;
 - (F) production support activities including security, cleaning,

heating and factory
maintenance;

(G) quality and production
control;

(H) repair of production
facilities;

(I) pollution control;

(ii) all other activities when they are
performed in Alberta directly in
connection with manufacturing or
processing, not including the
activities in clause (h)(i) to (x), in
Alberta of goods for sale or lease,
and

(iii) scientific research and
experimental development, as
defined in section 2900 of the
federal regulations, carried out in
Alberta,

but does not include

(iv) storing, shipping, selling and
leasing of finished goods,

(v) purchasing of raw materials,

(vi) administration, including clerical
and personnel activities,

(vii) purchase and resale operations,

(viii) data processing, or

(ix) providing facilities for employees,
including cafeterias, clinics and
recreational facilities;

(j) "salaries and wages" has the meaning
assigned to it by section 5202 of the
federal regulations.

(2) Subject to subsection (3), the "Alberta
manufacturing and processing profits" of a corporation
for a taxation year means that proportion of its adjusted

business income that the aggregate of its Alberta cost of manufacturing and processing capital for the year and its Alberta cost of manufacturing and processing labour for the year is of the aggregate of its cost of capital for the year and its cost of labour for the year.

(3) The "Alberta manufacturing and processing profits" of a corporation for a taxation year are deemed to be equal to the corporation's adjusted business income for the year if

- (a) the activities of the corporation during the year were primarily manufacturing or processing in Canada of goods for sale or lease,
- (b) the aggregate of
 - (i) the aggregate of all amounts each of which is the income of the corporation for the year from an active business minus the aggregate of all amounts each of which is the loss of the corporation for the year from an active business, and
 - (ii) if the corporation is associated in the year with a Canadian corporation, the aggregate of all amounts each of which is the income of the latter corporation from an active business for its taxation year coinciding with or ending in the year,

did not exceed \$200 000,

- (c) the corporation was not engaged in any of the activities listed in subclause (1)(h)(i) to (x) at any time during the year, and
- (d) the corporation did not carry on any active business outside Canada at any time during the year.

(4) For the purposes of subsection (3)(b)(ii), if a corporation is associated in the year with a Canadian corporation that did not have a permanent establishment in Alberta in its taxation year referred to in subsection

(3)(b)(ii), the income of the latter corporation from an active business shall be deemed to be its income from an active business as determined under the federal Act.

(5) There may be deducted from the tax otherwise payable under section 21 for a taxation year by a corporation an amount equal to 1% of the lesser of

- (a) the amount, if any, by which
 - (i) the corporation's Alberta manufacturing and processing profits for the year

exceed

- (ii) the product obtained when the least of the amounts determined under section 22(2)(a) to (c) in respect of the corporation for the year is multiplied by the Alberta allocation factor,

and

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

- (i) the amount determined under clause (a)(ii), and
 - (ii) where the corporation was a Canadian-controlled private corporation throughout the year, the product obtained when the Alberta allocation factor is multiplied by the amount determined under clause 129(3)(a)(i)(B) of the federal Act in respect of the corporation for the year.

(6) The amount determined under subsection (5) for a taxation year,

- (a) where the 1992 taxation year of the corporation ends after June 30, 1992, shall be the product obtained when 50% of the amount otherwise determined is multiplied

by the proportion that the number of days in the taxation year after June 30, 1992 bears to the number of days in the taxation year,

- (b) where the corporation has a taxation year which commences before July 1, 1992 and ends after December 31, 1992, shall be the aggregate of the products obtained when

- (i) 50% of the amount otherwise determined is multiplied by the proportion that the number of days in the taxation year after June 30, 1992 and before 1993 is to the number of days in the taxation year, and

- (ii) the amount otherwise determined is multiplied by the proportion that the number of days in the taxation year in 1993 is to the number of days in the taxation year,

and

- (c) where the corporation has a taxation year which commences after June 30, 1992 and ends in 1993, shall be the aggregate of the products obtained when

- (i) 50% of the amount otherwise determined is multiplied by the proportion that the number of days in the taxation year before 1993 is to the number of days in the taxation year, and

- (ii) the amount otherwise determined is multiplied by the proportion that the number of days in the taxation year after 1992 is to the number of days in the taxation year.

(7) Where a corporation has resource activities for a taxation year pursuant to subsection 5203(2) of the federal regulations the following applies, except as otherwise provided in subsection (8):

- (a) “adjusted business income” of the corporation for the year has the meaning assigned to it by subsection 5203(1) of the federal regulations;
- (b) “cost of capital” of the corporation for the year has the meaning assigned to it by subsection 5203(1) of the federal regulations;
- (c) “cost of labour” of the corporation for the year has the meaning assigned to it by subsection 5203(1) of the federal regulations.

(8) Where a corporation is a member of a partnership at any time in the taxation year of the corporation, the following applies:

- (a) “cost of capital” of the corporation for the year has the meaning assigned to it by section 5204 of the federal regulations;
- (b) “cost of labour” of the corporation for the year has the meaning assigned to it by section 5204 of the federal regulations;
- (c) “Alberta cost of manufacturing and processing capital” of the corporation for the year has the meaning assigned to the words “cost of manufacturing and processing capital” by section 5204 of the federal regulations except that the reference to “qualified activities” shall be deemed to be a reference to “qualified activities” as defined in subsection (1)(i);
- (d) “Alberta cost of manufacturing and processing labour” of the corporation for the year has the meaning assigned to the words “cost of manufacturing and processing labour” by section 5204 of the federal regulations except that the reference to “qualified activities” shall be deemed to be a reference to “qualified activities” as defined in subsection (1)(i).

(9) For the purposes of subsection (1)(h)(xi), if a corporation was a member of a partnership at any time

in a taxation year, paragraphs 125.1(4)(a) and (b) of the federal Act apply.

8(1) Section 23(2) is amended

- (a) by striking out “and 22.1” wherever it occurs and substituting “, 22.1 and 22.2”;*
- (b) in clause (a)(iii) by adding “and ends before April 1, 1991” after “March 31, 1987”;*
- (c) in clause (a) by striking out “or” at the end of subclause (ii), by adding “or” at the end of subclause (iii) and by adding the following after subclause (iii):*
 - (iv) if the taxation year ends after March 31, 1991, the amount determined when the foreign investment income for the year from sources in that country is multiplied by the proportion that tax payable under section 21 for the year is of the amount taxable in Alberta for the year,*

(2) Subsection (1)(b) and (c) apply to taxation years ending after March 31, 1991.

8 Section 23(2) presently reads:

(2) If a corporation has included foreign investment income in computing its income for a taxation year and is entitled to a deduction under subsection 126(1) of the federal Act in respect of income or profits tax paid to a country outside Canada, it may deduct from the tax payable remaining after it has claimed the deductions under sections 22 and 22.1 an amount equal to the lesser of

(a) the Alberta allocation factor multiplied by,

(i) if the taxation year ends before April 1, 1987, 11% of the foreign investment income for the year from sources in that country,

(ii) if part of the taxation year is before April 1, 1987 and part of the taxation year is after March 31, 1987, the aggregate of

(A) 11% of the proportion of the foreign investment income for the year from sources in that country that the number of days in the year before April 1, 1987 bears to the number of days in the year, and

(B) 15% of the proportion of the foreign investment income for the year from sources in that country that the number of days in the year after March 31, 1987 bears to the number of days in the year,

or

(iii) if the taxation year begins after March 31, 1987, 15% of the foreign investment income for the year from sources in that country,

(b) the Alberta allocation factor multiplied by the amount, if any, by which

(i) the non-business-income tax paid by the corporation for the year to that country, except any amount that may be regarded as having been paid in respect of income from a

9 Section 24(2) is amended by striking out “and 23” wherever it occurs and substituting “, 22.2 and 23”.

share of the capital stock of a foreign affiliate of the corporation,

exceeds the aggregate of

(ii) the amount deductible under subsection 126(1) of the federal Act in respect thereof, and

(iii) the greater of the amount deducted under subsection 20(12) of the federal Act in determining income under the federal Act and the amount deducted under subsection 20(12) of the federal Act as adopted by this Act in determining income under this Act,

and

(c) the amount of the tax remaining after it has claimed the deductions under sections 22 and 22.1.

9 Section 24(2) presently reads:

(2) In respect of the aggregate amount of contributions under the Election Finances and Contributions Disclosure Act contributed by a corporation during the taxation year to a registered party, registered constituency association or registered candidate, that corporation may reduce the amount of tax that it would be required to pay under this Part after claiming the deductions under sections 22, 22.1 and 23 by an amount equal to

(a) in the case of a registered party, a registered constituency association or a registered candidate who is a candidate under the Election Act, for contributions made on or after January 1, 1982, in respect of an election under the Election Act,

(i) 75% of the amount contributed if the aggregate amount of contributions by the corporation does not exceed \$150,

(ii) \$112.50 plus 50% of the amount contributed in excess of \$150 if the aggregate amount of contributions by the corporation exceeds \$150 but does not exceed \$825, or

(iii) the lesser of

(A) \$750, and

(B) \$450 plus 33 1/3% of the amount contributed in excess of \$825,

if the aggregate amount of contributions by the corporation exceeds \$825,

10 Section 25(3) is amended by adding “22.2,” after “22.1,” wherever it occurs.

11 Section 26.1(14.1) is amended by striking out “its tax for” and substituting “its liability under this Act for”.

and

(b) *in the case of a registered party that has nominated a candidate under the Senatorial Selection Act or a registered candidate who is a candidate under the Senatorial Selection Act, for contributions made on or after January 1, 1989, in respect of an election under the Senatorial Selection Act,*

(i) *75% of the amount contributed if the aggregate amount of contributions by the corporation does not exceed \$150,*

(ii) *\$112.50 plus 50% of the amount contributed in excess of \$150 if the aggregate amount of contributions by the corporation exceeds \$150 but does not exceed \$825, or*

(iii) *the lesser of*

(A) *\$750, and*

(B) *\$450 plus 33 1/3% of the amount contributed in excess of \$825,*

if the aggregate amount of contributions by the corporation exceeds \$825,

or the amount of the tax payable after claiming the deductions under sections 22, 22.1 and 23, whichever is the lesser.

10 Section 25(3) presently reads:

(3) *A corporation may reduce the amount of tax that it would be required to pay under this Part after complying with sections 21, 22, 22.1, 23 and 24 by an amount equal to the lesser of*

(a) *the amount, if any, by which the aggregate of the maximum eligible incentive for all qualifying Alberta multiple unit residential buildings of the corporation exceeds the aggregate of all tax credits allowed in a previous taxation year to the corporation under this section, and*

(b) *the tax payable under this Act after claiming the deductions under sections 22, 22.1, 23 and 24.*

11 Section 26.1(14.1) presently reads:

(14.1) *A corporation is deemed to have paid on the day on which it files an application in accordance with subsection (14) in respect of a taxation year an amount on account of its tax for the year equal to the amount, if any, by which the royalty tax credit to which it is*

12(1) Section 30 is amended

- (a) *by repealing subsection (2.01) and substituting the following:*

(2.01) In the application of subparagraph 131(2)(a)(i) of the federal Act for the purposes of this Act,

- (a) in respect of a taxation year ending after June 30, 1988 and before 1990, the reference to "18 2/3%" shall be read as a reference to 10%,
- (b) in respect of a taxation year ending after December 31, 1989 and before April 1, 1991, the reference to "21%" shall be read as a reference to 11.25%,

and

- (c) in respect of a taxation year ending after March 31, 1991, the reference to any percentage in subparagraph 131(2)(a)(i) shall be read as a reference to 3/4 of the proportion that tax payable under section 21 for the year is of the amount taxable in Alberta for the year.

- (b) *by repealing subsection (4.1) and substituting the following:*

(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,

- (a) in respect of a taxation year ending after June 30, 1988 and before 1990, the reference to "75/14" shall be read as a reference to 100/10,
- (b) in respect of a taxation year ending after December 31, 1989 and before April 1, 1991, the reference to "100/21" shall be read as a reference to 80/9,

and

- (c) in respect of a taxation year ending after March 31, 1991, the reference to any

entitled for the year exceeds the aggregate of amounts paid by the Provincial Treasurer under section 26.4 for the year.

12 Section 30(2.01), (4.1), (5.1) and (8) presently read:

(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.

(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.

(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.*

(8) A corporation is deemed to have paid, on the later of the day its return under section 36 for the taxation year is filed and the day on which it files a statement with the Provincial Treasurer containing a calculation of its capital gains refund for the year, an amount equal to its capital gains refund for the year.

fraction in clauses 131(6)(a)(i)(A) and 131(6)(b)(ii)(C) shall be read as a reference to the fraction obtained when 1 is divided by 3/4 of the proportion that tax payable under section 21 for the year is of the amount taxable in Alberta for the year.

- (c) *by repealing subsection (5.1) and substituting the following:*

(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

- (a) in respect of a taxation year ending after June 30, 1988 and before April 1, 1991, as if the reference to "28%", wherever it occurs, were a reference to 15%,
- (b) in respect of a taxation year ending after March 31, 1991, as if the reference to the percentage in clauses (A) and (B) were a reference to the proportion that tax payable under section 21 for the year is of the amount taxable in Alberta for the year, and
- (c) in respect of a taxation year ending after June 30, 1988 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;

- (d) *by repealing subsection (8) and substituting the following:*

(8) If a corporation has filed a return under section 36 for the taxation year within 3 years from the end of the taxation year, the corporation is entitled to and is deemed to have paid on account of its liability under this Act for the taxation year an amount equal to its capital gains refund for the year on the day on which it makes an application in writing containing a calculation of its capital gains refund if, under circumstances in which section 43(1)(d)(ii) or (iii) or (1.2) applies, the day is within the periods referred to in section 43(1)(d)(ii) or (iii) or (1.2), as the case may be.

(2) Subsection (1)(a) to (c) apply to taxation years ending after March 31, 1991.

13(1) Section 35(2.1) and (2.2) are repealed and the following is substituted:

(2.1) Subject to subsection (2.2), subsection (1) applies in respect of an insurer described 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 part of the gross premium income, net of reinsurance ceded, earned in the year by the insurer that, in the opinion of the Provincial Treasurer, on the advice of the Superintendent of Financial Institutions or of the Superintendent of Insurance of the province under whose laws the insurer is incorporated, was in respect of insurance of farm property, property used in fishing or residences of farmers or fishermen

is of

- (b) the gross premium income, net of reinsurance ceded, earned in the year by the insurer.

(2.2) Subsection (2.1) does not apply in respect of an insurer described 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 total of the gross premium income, net of reinsurance ceded, earned in the year by the insurer and, where the insurer is not a prescribed insurer under the federal Act, all other insurers that

- (a) were specified shareholders of the insurer,
- (b) were related to the insurer, or
- (c) where the insurer is a mutual corporation, were part of a group that controlled, directly or indirectly in any manner whatever, or were controlled, directly or indirectly in any manner whatever, by the insurer,

was in respect of insurance of farm property, property used in fishing or residences of farmers or fishermen.

13 Section 35(2.1) and (2.2) presently read:

(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 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.

(2.3) For the purposes of this Act, in computing the taxable income of an insurer for a particular taxation year, the insurer is deemed to have deducted under paragraphs 20(1)(a), 20(7)(c) and 138(3)(a) and section 140 of the federal Act in each of the taxation years preceding the particular year and in respect of which paragraph 149(1)(t) of the federal Act applied to the insurer, the greater of

- (a) the amount it claimed or deducted under those provisions for that preceding year, and
- (b) the greatest amount that could have been claimed or deducted under those provisions to the extent that the total of them does not exceed the amount that would be its taxable income for that preceding year if no amount had been claimed or deducted under those provisions.

(2) Subsection (1) applies to the 1989 and subsequent taxation years except that, in its application to the 1989 and 1990 taxation years, section 35(2.3) as enacted by subsection (1) shall be read as follows:

(2.3) In computing the taxable income of an insurer described in paragraph 149(1)(t) of the federal Act for a taxation year in respect of which subsection (1) applies to the insurer, the insurer is deemed to have claimed or deducted in each of its taxation years preceding the year the greater of the amount it claimed or deducted and the 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 the preceding taxation year.

14 Section 36(2) is amended by adding “or a director or officer of the corporation” before “shall, on receipt”.

14 Section 36(2) presently reads:

(2) Whether or not a corporation is liable to pay tax under this Act for a taxation year and whether or not a return has been filed under subsection (1) or (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.

15(1) Section 37 is amended by renumbering it as section 37(1) and by adding the following after subsection (1):

(2) In determining a corporation's tax for a taxation year for the purpose of computing a penalty under subsection (1) in respect of the corporation's return of income for the year, section 39(3)(a) applies.

(2) Subsection (1) applies with respect to amounts referred to in section 39(3)(a) in respect of subsequent taxation years referred to in that clause ending after July 13, 1990.

16 The following is added after section 37:

Penalty for
false
statement

37.1(1) If a person acting on behalf of a corporation knowingly or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed under this Act or in the claiming of any refundable tax credits under this Act makes or participates in, assents to or acquiesces in the making of a false statement or omission in a return, application, certificate, statement or answer, all in this section referred to as a "return", filed or made in respect of a taxation year as required under this Act or a regulation, the corporation is liable to a penalty of the greater of \$100 or 50% of the aggregate of

15 Section 37 presently reads:

37 A corporation that has failed to file a return for a taxation year 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

(i) the tax for the year 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.

16 Penalty for false statements or omissions.

- (a) the amount, if any, by which
 - (i) the tax for the year that would be payable by the corporation under this Act, if the amount taxable in Alberta for the year were computed
 - (A) by adding to the taxable income reported by the corporation in its return for the year that portion of its understatement of income for the year that is reasonably attributable to the false statement or omission,
 - (B) by recalculating the Alberta allocation factor as it would be calculated under section 19(1) if it were not for the false statement or omission, and
 - (C) by deducting from the royalty tax deduction reported by the corporation in its return for the year the portion, if any, of the corporation's royalty tax deduction that is reasonably attributable to the false statement or omission

exceeds

- (ii) the tax for the year that would be payable by the corporation under this Act if the corporation were assessed on the basis of the corporation's amount taxable in Alberta as filed,

(b) the amount, if any, by which

- (i) the tax for the year that would be payable if the tax were computed by subtracting from the deductions from the tax otherwise payable by the corporation for the year the portion of any of the deductions that is reasonably attributable to the false statement or omission

exceeds

- (ii) the tax for the year that would be payable by the corporation under this Act if the corporation's tax payable for the year were assessed on the basis of the information provided in its return for the year,

and

(c) the amount, if any, by which

- (i) the refundable tax credits for the year that would be payable to the corporation if they were determined on the basis of information provided in the corporation's return for the year

exceed

- (ii) the refundable tax credits for the year that would be payable to the corporation if they were determined by deducting from the refundable tax credits claimed by the corporation in its return for the year the portion of them that is reasonably attributable to the false statement or omission.

(2) For the purpose of subsection (1), the taxable income reported by a corporation in its return for a taxation year shall be deemed to be not less than nil and the "understatement of income" for a year of a corporation means the aggregate of

(a) the amount, if any, by which

- (i) the aggregate of the amounts that were not reported by the corporation in its return and that were required to be included in computing the corporation's income for the year under this Act

exceeds

- (ii) the aggregate of the amounts that could have been deducted by the corporation in computing its income for the year under this Act that were wholly applicable to the amounts referred to in subclause (i) and that were not deducted in computing the corporation's income reported in the corporation's return for the year,

(b) the amount, if any, by which

- (i) the aggregate of amounts deducted in computing the corporation's income for the year reported by the corporation in its return

exceeds

- (ii) the aggregate of the amounts referred to in subclause (i) that were deductible in computing the corporation's income for the year in accordance with this Act,

and

(c) the amount, if any, by which

- (i) the aggregate of the amounts deducted, other than by virtue of the application of section 111 of the federal Act, from the corporation's income for the purpose of computing the taxable

income for the year reported by
the corporation in its return

exceeds

- (ii) the aggregate of the amounts deductible, other than by virtue of the application of section 111 of the federal Act, from the corporation's income for the purpose of computing its taxable income for the year in accordance with this Act.

(3) In determining under subsection (2) the understatement of income for a taxation year of a corporation, the following amounts are deemed not to be deductible or excludable in computing the corporation's income for the year:

- (a) any amount that may be deducted under section 41 of the federal Act in respect of its listed-personal-property loss for a subsequent taxation year, and
- (b) any amount that may be excluded from the corporation's income by reason of section 49 of the federal Act in respect of the exercise of any option in a subsequent taxation year.

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

17(1) Section 38(1.1) is repealed and the following is substituted:

(1.1) Notwithstanding subsection (1), a corporation that is throughout the year a Canadian-controlled private corporation as defined in section 22(1)(c) shall pay the amount of the tax payable for a taxation year on or before the last day of the period ending 3 months after the end of the year if

- (a) in the year it deducted an amount under section 22 in computing its tax payable

17 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 for the year on or before the last day of the period ending 3 months after the close of the year.

under Part 5 and had taxable income that did not exceed \$500 000, or

- (b) in the immediately preceding year it deducted an amount under section 22 in computing its tax payable under Part 5 and had taxable income that did not exceed \$500 000.

(2) Subsection (1) applies to instalments paid after this Act is assented to.

18(1) Section 38.1 is amended by adding the following after subsection (2):

(3) Where an amount has been applied to a liability of a corporation to Her Majesty in right of Alberta in excess of the amount to which the corporation was entitled as a refund under this Act, this section applies as if that amount had been refunded to the taxpayer on the day on which it was so applied.

(2) Subsection (1) applies to taxation years ending after the day on which this Act is assented to.

19 Section 39 is amended

- (a) *in subsection (1)(a) by striking out “on the first day” and substituting “immediately before the first day”;*
- (b) *in subsection (1)(d) by adding “in respect of the year” before “computed”;*
- (c) *in subsection (2)(d) by adding “computed from the last day of the month to the end of the period” after “that subsection”;*
- (d) *in subsection (4) by adding “and section 73.1” after “subsection (2)”.*

18 Section 38.1 presently reads:

38.1(1) If at any time the Provincial Treasurer determines that 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 corporation shall pay to the Provincial Treasurer interest at the prescribed rate on the excess from the day it became payable to the day of payment.*

(2) The Provincial Treasurer may, at any time, assess the corporation in respect of any amount payable by the corporation under subsection (1), and this Part applies in respect of an assessment made under this subsection as if it had been made under section 43.

19 Section 39(1), (2) and (4) 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.*

(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 38(1)(b), (1.1) or (3), 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, 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 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.*

(4) For the purposes of subsection (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,*

20(1) Section 41 is amended by adding the following after subsection (1):

(1.1) Notwithstanding section 43(1) to (3), where the Provincial Treasurer has accepted an election or an amendment to or revocation of an election referred to in subsection 220(3.2) of the federal Act, such assessment of the tax payable by each corporation in respect of any taxation year commencing before the day the Provincial Treasurer receives the relevant application or notification shall be made as is necessary to take into account the election or the amended or revoked election, as the case may be.

(2) Subsection (1) applies with respect to elections in respect of the 1985 and subsequent taxation years.

21(1) Section 43 is amended

(a) by repealing subsections (1.1) and (2) and substituting the following:

(1.1) In subsections (1.2) and (2), “assessment action” means

- (a) an assessment, reassessment or additional assessment of tax, interest or penalties,
- (b) a determination or redetermination of a loss, or
- (c) a confirmation of an assessment, reassessment or additional assessment of tax, interest or penalties or of a determination or redetermination of a loss

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

(1.2) Notwithstanding subsection (1) and not more than 12 months after an assessment action in respect of a particular taxation year, the Provincial Treasurer, in respect of the particular taxation year or any

- (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.

20 Section 41(1) presently reads:

41(1) The Provincial Treasurer shall, with all due dispatch after receipt of a return, examine the return and assess the tax under Part 5 for the year and the interest and penalties payable and shall determine

- (a) *the amounts of the refundable tax credits, if any, for the taxation year, and*
- (b) *the amount of the refund, if any, to which a corporation is entitled pursuant to section 28 or 30 for the taxation year.*

21 Section 43(1.1) and (2) presently read:

(1.1) Notwithstanding subsection (1), the Provincial Treasurer

- (a) *may reassess, make additional assessments of or assess tax, interest or penalties under this Act,*
- (b) *may notify in writing any corporation that filed a return for a taxation year that no tax is payable for a taxation year, or*
- (c) *may determine the corporation's entitlement to and the amount, if any, of a refundable tax credit,*

not more than 12 months after an assessment, reassessment or additional reassessment or the confirmation of an assessment, reassessment or additional reassessment under the federal Act or a statute of a province of Canada that imposes tax similar to the tax imposed under this Act.

(2) There shall not be included in computing the income of a corporation for a taxation year for the purposes of any reassessment, additional assessment or assessment of tax, interest or penalties that is made after the expiration of the normal reassessment period or the period referred to in subsection (1.1) any amount that was not included in computing its income for the purposes of an assessment of tax made before the expiration of the normal reassessment period or the period referred to in subsection (1.1), and

taxation year in which a loss of the particular taxation year may be deducted under subsection 41(2) or section 111 of the federal Act as it applies for the purposes of this Act, may

- (a) reassess, make additional assessments of or assess tax, interest or penalties,
- (b) notify in writing a corporation that filed a return under this Act for the year that no tax is payable for the year, or
- (c) determine the corporation's entitlement to, and the amount, if any, of a refundable tax credit.

(2) For the purposes of any reassessment, additional assessment or assessment of tax, interest or penalties that is made after the normal reassessment period for the corporation in respect of the taxation year, there shall not be included in computing the income of a corporation for a taxation year an amount

- (a) that was not included in computing the corporation's income for the purpose of an assessment of tax made before the end of the normal reassessment period for the corporation,
- (b) in respect of which the corporation establishes that the failure to include it did not result from any misrepresentation attributable to negligence, carelessness or wilful default or from any fraud in filing a return of its income or supplying any information under this Act,
- (c) that the corporation establishes cannot be reasonably regarded as relating to an assessment action, and
- (d) that the corporation establishes cannot be reasonably regarded as relating to a matter specified in a waiver filed by the corporation with the Provincial Treasurer in the form and within the time referred to in subsection (1) with respect to a taxation year to which the reassessment, additional assessment or assessment of tax, interest or penalties, as the case may be, relates.

- (a) in respect of which the corporation establishes that the failure to include it did not result from a misrepresentation attributable to neglect, carelessness or wilful default or from fraud in filing a return of its income or in supplying information under this Act, and*
- (b) that the corporation establishes cannot be reasonably regarded as relating to a matter specified in a waiver filed by the corporation with the Provincial Treasurer in the form and within the time referred to in subsection (1) with respect to a taxation year to which the reassessment, additional assessment or assessment of tax, interest or penalties, as the case may be, relates.*

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

(4) Notwithstanding subsections (1) to (2), the Provincial Treasurer may make such assessments, reassessments and additional assessments of tax, interest and penalties and such determinations and redeterminations as are necessary to give effect to subsection 67.5(1) of the federal Act as it is made applicable by this Act for any taxation year.

(2) Subsection (1)(a) applies with respect to any assessment action that occurs after the date that is 12 months before the date on which this Act is assented to.

(3) Subsection (1)(b) applies to outlays made and expenses incurred after July 13, 1990.

22(1) Section 47 is amended

(a) in subsection (2) by striking out “or (1.1)” wherever it occurs and substituting “or (1.2)”;

(b) by adding the following after subsection (2.4):

(2.5) Notwithstanding subsection (2), the Provincial Treasurer, on or after mailing a notice of assessment for a taxation year, may refund any overpayment of a corporation for the year if an assessment was made under section 41(1.1) in respect of the corporation.

(c) in subsection (3) by striking out “under this Act” and substituting “to Her Majesty in right of Alberta”;

(d) in subsection (4.3) by striking out “pursuant to subsection (4)” and substituting “under subsection (4) or (4.31)”;

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

(4.31) Notwithstanding subsection (4), if the amount of an overpayment of a corporation for a taxation year is determined by reason of section 41(1.1) and an amount in respect of it is refunded to or applied to another liability of the corporation under subsection (2.5) or (3), the Provincial Treasurer shall pay or apply interest on it at the prescribed rate for the period beginning from the day that the Provincial Treasurer received, in a form satisfactory to the Provincial Treasurer, the relevant application or

22 Section 47(2), (3), (4.3) and (4.4) presently read:

(2) If the return required to be filed by a corporation under section 36 for a taxation year has been filed within 3 years from the end of that year, the Provincial Treasurer

- (a) may, on or after mailing the notice of assessment for the taxation year, refund without application for the refund any overpayment for the year, and*
- (b) if the corporation makes an application in writing under circumstances in which section 43(1)(d)(ii) or (iii) or (1.1) applies within the periods referred to in section 43(1)(d)(ii) or (iii) or (1.1), as the case may be, shall, with all due dispatch, make the refund after mailing the notice of reassessment.*

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

(4.3) If, at any particular time, interest has been paid to, or applied to a liability of, a corporation pursuant to subsection (4) in respect of an overpayment and it is determined at a subsequent time that the actual overpayment was less than the overpayment in respect of which interest was paid or applied, the following rules apply:

- (a) the amount by which the interest that has been paid or applied exceeds the interest, if any, computed in respect of the amount that is determined at the subsequent time*

notification and ending on the day the amount is refunded or applied.

(f) in subsection (4.4)

- (i) by adding "or" at the end of clause (a), by striking out "or" at the end of clause (b) and by repealing clause (c);*
- (ii) by adding "and" at the end of clause (d), by striking out "and" at the end of clause (e) and by repealing clause (f);*
- (iii) by striking out "accepted therefor by him to any other corporation that has filed an objection or instituted an" and substituting "accepted for them by the Provincial Treasurer to that corporation or any other corporation that has filed another objection or instituted another".*

(2) Subsection (1)(a) applies with respect to any assessment action that occurs after the date that is 12 months before the date on which this Act is assented to.

(3) Subsection (1)(b), (d) and (e) apply with respect to refunds for the 1985 and subsequent taxation years.

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

(5) Subsection (1)(f) applies after December 31, 1990.

23(1) Section 48 is amended

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

to be the actual overpayment shall be deemed to be an amount, in this subsection referred to as "the amount payable", that became payable under this Act by the corporation at the particular time;

- (b) the corporation shall pay to the Provincial Treasurer interest at the prescribed rate on the amount payable computed from the particular time to the day of payment;*
- (c) the Provincial Treasurer may, at any time, assess the corporation in respect of the amount payable and, where the Provincial Treasurer makes that assessment, this Act applies, with any necessary modifications, in respect of the assessment as though it had been made under section 43.*

(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, unless otherwise directed in writing by the corporation,*
- (e) refund any overpayment resulting from the variation, vacation or reassessment, and*
- (f) where clause (c) applies, repay any tax, interest or penalties, or pay any refundable tax credit as ordered,*

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.

23 Section 48(1), (2) and (6) presently read:

48(1) A corporation that objects to an assessment under this Part may within 90 days from the day of mailing of the notice of

Notice of
objection to
assessment

48(1) A corporation that objects to an assessment under this Act may serve on the Provincial Treasurer a notice of objection in the prescribed form setting out the reasons for the objection and all relevant facts, on or before the day that is 90 days after the day of mailing of the notice of assessment.

(1.1) Notwithstanding subsection (1), where at any time the Provincial Treasurer assesses tax, interest or penalties payable under this Act by, or makes a determination in respect of, a corporation

- (a) under section 41(1.1), 43(1)(d)(ii)(A), (1.2) or (4), 44 or 47(4.4) or in accordance with an order of a court vacating, varying or restoring the assessment or referring the assessment back to the Provincial Treasurer for reconsideration and reassessment, or
- (b) under subsection (4) where the underlying objection relates to an assessment or a determination made under any of the provisions or circumstances referred to in clause (a),

the corporation may object to the assessment or determination within 90 days after the day of mailing of the notice of assessment or determination only to the extent that the reasons for the objection may reasonably be regarded as relating to a matter that gave rise to the assessment or determination and that was not conclusively determined by the court, except that this subsection shall not be read or construed as limiting the right of the corporation to object to an assessment or a determination issued or made before that time.

- (b) in subsection (6) by striking out “or (1.1)” wherever it occurs and substituting “or (1.2)”.

(2) Subsection (1)(a) applies with respect to objections made after the day on which this Act is assented to.

(3) Subsection (1)(b) applies with respect to any assessment action that occurs after the date that is 12 months before the date on which this Act is assented to.

24(1) The following is added after section 48:

assessment, serve on the Provincial Treasurer a notice of objection in the prescribed form setting out the reasons for the objection and all relevant facts.

(2) A notice of objection under this section shall be served by being sent by certified mail or registered letter addressed to the Provincial Treasurer.

(6) No reassessment made by the Provincial Treasurer pursuant to subsection (4)(b) is invalid by reason only of not having been made within the periods referred to in section 43(1)(d)(ii) or (iii) or (1.1), as the case may be, under circumstances in which section 43(1)(d)(ii) or (iii) or (1.1) applies.

Extension of
time by
Provincial
Treasurer

48.1(1) Where no notice of objection to an assessment has been served under section 48 within the time limited by that section for doing so, the corporation may apply to the Provincial Treasurer to extend the time for serving the notice of objection.

(2) An application made under subsection (1) shall set out the reasons why the notice of objection was not served within the time otherwise limited by this Act for doing so.

(3) An application under subsection (1) shall be delivered or mailed to the Provincial Treasurer and accompanied by a copy of the notice of objection.

(4) The Provincial Treasurer may accept an application under this section notwithstanding that it was not made in the manner required by subsection (3).

(5) On receipt of an application made under subsection (1), the Provincial Treasurer shall, with all due dispatch, consider the application and grant or refuse it, and shall notify the corporation of the decision by registered mail.

(6) Where an application made under subsection (1) is granted, the notice of objection shall be deemed to have been served on the day the decision of the Provincial Treasurer is mailed to the corporation.

(7) No application shall be granted under this section unless

- (a) the application is made within one year after the expiration of the time otherwise limited by this Act for serving a notice of objection, and
- (b) the corporation demonstrates that
 - (i) within the time otherwise limited by this Act for serving the notice, the corporation
 - (A) was unable to act or to instruct another to act in the corporation's name, or

(B) intended in good faith
to object to the
assessment,

(ii) given the reasons set out in the
application and the circumstances
of the case, it would be just and
equitable to grant the application,
and

(iii) the application was made as soon
as circumstances permitted.

Extension of
time by court

48.2(1) A corporation that has made an application
under section 48.1 may apply to the court to have the
application granted after either

(a) the Provincial Treasurer has refused or is
deemed to have refused the application, or

(b) 90 days have elapsed after service of the
application under section 48.1 and the
Provincial Treasurer has not notified the
corporation of the Provincial Treasurer's
decision,

but no application under this section may be made after
the expiration of 90 days after the day on which
notification of the decision was mailed to the
corporation.

(2) An application under subsection (1) shall be made
by serving on the Provincial Treasurer a copy of the
documents referred to in section 48.1(3) and the
notification, if any, referred to in section 48.1(5) and by
filing a copy of each with the clerk of the court.

(3) The court may grant or dismiss an application
made under subsection (1) and, in granting an
application, may impose such terms as it considers just
or order that the notice of objection is deemed to have
been served on the date of its order.

(4) No application shall be granted under this section
unless

(a) the application was made under section
48.1(1) within one year after the expiration

of the time otherwise limited by this Act for serving a notice of objection, and

- (b) the corporation demonstrates that
 - (i) within the time otherwise limited by this Act for serving the notice, the corporation
 - (A) was unable to act or to instruct another to act in the corporation's name, or
 - (B) intended in good faith to object to the assessment,
 - (ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and
 - (iii) the application was made under section 48.1(1) as soon as circumstances permitted.

(2) Subsection (1) applies with respect to applications filed after the date that is 30 days after the date on which this Act is assented to.

25(1) Section 50 is amended by adding the following after subsection (1):

(1.1) Notwithstanding subsection (1), where at any time the Provincial Treasurer assesses tax, interest or penalties payable under this Act by, or makes a determination in respect of, a corporation

- (a) under section 41(1.1), 43(1)(d)(ii)(A), (1.2) or (4), 44 or 47(4.4) or in accordance with an order of a court vacating, varying or restoring the assessment or referring the assessment back to the Provincial Treasurer for reconsideration and reassessment, or
- (b) under section 48(4) where the underlying objection relates to an assessment or a

25 Section 50(1) presently reads:

50(1) A corporation that has served notice of objection to an assessment under section 48(1) may appeal to the court to have the assessment vacated or varied after

- (a) the Provincial Treasurer has confirmed the assessment or reassessed, or*
- (b) 90 days have elapsed after service of the notice of objection and the Provincial Treasurer has not notified the corporation that he has vacated or confirmed the assessment or reassessed,*

but no appeal under this section may be instituted after the expiration of 90 days from the day notice that the Provincial Treasurer has confirmed the assessment or reassessed was mailed to the corporation under section 48.

determination made under any of the provisions or circumstances referred to in clause (a),

the corporation may appeal to the court within the time limit specified in subsection (1) only to the extent that the reasons for the appeal may reasonably be regarded as relating to a matter that gave rise to the assessment or determination and that was not conclusively determined by the court, except that this subsection shall not be read or construed as limiting the right of the corporation to appeal from an assessment or a determination issued or made before that time.

(2) Subsection (1) applies with respect to appeals from assessments or determinations objected to after the day on which this Act is assented to.

26(1) The following is added after section 50:

Extension of
time to appeal

50.1(1) Where an appeal to the court has not been instituted by a corporation under section 50 within the time limited by that section for doing so, the corporation may make an application to the court for an order extending the time within which the appeal may be instituted, and the court may make an order extending the time for appealing and may impose such terms as it considers just.

(2) An application made under subsection (1) shall set out the reasons why the appeal was not instituted within the time limited by section 50 for doing so.

(3) An application under subsection (1) shall be made by serving on the Provincial Treasurer a copy of the application and a copy of the notice of appeal and by filing a copy of each with the clerk of the court.

(4) No order shall be made under this section unless

(a) the application is made within one year after the expiration of the time limited by section 50 for appealing, and

(b) the corporation demonstrates that

(i) within the time otherwise limited by section 50 for appealing, the corporation

26 Extensions of time to appeal from an assessment.

- (A) was unable to act or to instruct another to act in the corporation's name, or
 - (B) intended in good faith to appeal,
- (ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application,
 - (iii) the application was made as soon as circumstances permitted, and
 - (iv) there are reasonable grounds for the appeal.

(2) Subsection (1) applies with respect to applications filed after the date that is 30 days after the date on which this Act is assented to.

27(1) Section 52 is amended by repealing subsections (3), (4) and (5).

(2) Subsection (1) is deemed to have come into force on January 1, 1991.

27 Section 52(3), (4) and (5) presently read:

(3) The court may

(a) dismiss the appeal, or

(b) allow the appeal, and

(i) vacate the assessment,

(ii) vary the assessment,

(iii) restore the assessment, or

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

(4) The court may, in delivering judgment on an appeal, order payment or repayment of tax, a refundable tax credit, interest and penalties or costs by the taxpayer or the Provincial Treasurer.

(5) If the court disposes of an appeal by a corporation in respect of an amount payable under this Act or an appeal by a corporation has been discontinued or dismissed without trial, the court may, on the application of the Provincial Treasurer and whether or not it awards costs, order the corporation to pay to the Provincial

28(1) Section 55 is amended

(a) in subsection (3.3)(a) by adding “or a preceding taxation year” after “for the year”;

(b) by repealing subsections (5), (5.1) and (6).

(2) Subsection (1)(a) applies after July 13, 1990.

(3) Subsection (1)(b) applies with respect to applications filed after the date that is 30 days after the date on which this Act is assented to.

Treasurer an amount not exceeding 10% of the amount in controversy if it determines that there were no reasonable grounds for the appeal and that one of the main purposes of instituting or maintaining the appeal was to defer the payment of an amount payable under this Act

28 Section 55(3.3), (5), (5.1) and (6) presently read:

(3.3) The Provincial Treasurer shall accept adequate security furnished by or on behalf of a corporation that is a member institution in relation to a deposit insurance corporation as defined in subsection 137.1(5) of the federal Act, for payment of

- (a) the tax payable under this Act by the corporation for a taxation year to the extent that the amount of that tax exceeds the amount that that tax would be if no amount that the corporation is obliged to repay to the deposit insurance corporation were included under paragraph 137.1(10)(a) or (b) of the federal Act as made applicable for the purposes of this Act in computing the corporation's income for the year, and*
- (b) interest payable under this Act by the corporation on the amount determined under clause (a),*

until the earlier of

- (c) the day on which the corporation's obligation referred to in clause (a) to repay the amount to the deposit insurance corporation is settled or extinguished, and*
- (d) the day that is 10 years after the end of the year.*

(5) Notwithstanding sections 48(1) and 50(1), an application may be made to the court by originating notice for an order extending the time within which a notice of objection under section 48(1) or a notice of appeal under section 50(1) is to be served and the court may make an order extending the time for objecting or appealing, as the case may be, and may impose any terms it considers necessary.

(5.1) A copy of the originating notice referred to in subsection (5) shall be served on the Provincial Treasurer by being sent by certified mail or registered letter addressed to the Provincial Treasurer.

(6) No order shall be made under subsection (5)

- (a) unless the application to extend the time for objecting or appealing is made within 1 year after the expiration of the time required by this Act for objecting or appealing from the assessment in respect of which the application is made,*

29(1) The following is added after section 55:

Waiver or
cancellation of
penalties or
interest

55.1 Notwithstanding the *Financial Administration Act*, the Provincial Treasurer may at any time waive or cancel the imposition of or liability for any penalty or interest imposed or payable under this Act.

(2) Subsection (1) applies with respect to refunds for the 1985 and subsequent taxation years.

30(1) Section 60.1 is amended

- (a) in subsection (4)(a) by striking out "Federal Court of Canada" and substituting "Tax Court of Canada";*
- (b) in subsection (4)(b) by striking out "or the Federal Court of Canada";*
- (c) in subsection (5) by striking out "Federal Court of Canada" wherever it occurs and substituting "Federal Court of Appeal".*

(2) Subsection (1) is deemed to have come into force on January 1, 1991.

- (b) *if the court has previously made an order extending the time for objecting to or appealing from the assessment, as the case may be, and*
- (c) *unless the court is satisfied that*
 - (i) *but for the circumstances mentioned in the application, an objection would have been made or taken within the time otherwise limited by this Act for so doing,*
 - (ii) *the application was brought as soon as circumstances permitted it to be brought, and*
 - (iii) *there are reasonable grounds for objecting to or appealing from the assessment.*

29 Waiver or cancellation of penalties or interest.

30 Section 60.1(4) and (5) presently read:

- (4) *If the Provincial Treasurer is notified that*
 - (a) *proceedings have been instituted in the Federal Court of Canada under section 173 of the federal Act, or*
 - (b) *the Minister of National Revenue has applied to the Tax Court of Canada or the Federal Court of Canada under section 174 of the federal Act,*

the Provincial Treasurer shall not take any of the actions described in subsection (1)(a) to (c) for the purpose of collecting that part of an amount assessed, the liability for payment of which will be affected by the determination of the question that is the subject of the proceedings or application, before the day on which the question is determined by that court.

(5) Notwithstanding any other provision in this section, if a corporation has served a notice of objection under this Act to an assessment or has appealed to the Court of Queen's Bench from the assessment and agrees in writing with the Provincial Treasurer to delay proceedings on the objection or appeal, as the case may be, until judgment has been given in another action before the Court of Queen's Bench, the Court of Appeal, the Tax Court of Canada, the Federal Court of Canada or the Supreme Court of Canada in which the issue is the same or substantially the same as that raised in the

31(1) Section 61(5) is amended

- (a) by striking out “section 50” and substituting “section 50 or 50.1”;*
- (b) by striking out “further appeal is disposed” and substituting “further appeal in respect of it is disposed”.*

(2) Subsection (1) is deemed to have come into force on January 1, 1991.

32 Section 73 is repealed.

objection or appeal of the corporation, the Provincial Treasurer may take any of the actions described in subsection (1)(a) to (c) for the purpose of collecting the amount assessed, or a part of the amount, determined in a manner consistent with the decision or judgment made in the other action at any time after the Provincial Treasurer notifies the corporation in writing that

- (a) the decision has been made by the Court of Queen's Bench in that action,*
- (b) the decision has been made by the Court of Appeal in that action,*
- (c) the decision has been made by the Tax Court of Canada in that action,*
- (d) judgment has been pronounced by the Federal Court of Canada in that action, or*
- (e) judgment has been delivered by the Supreme Court of Canada in that action,*

as the case may be.

31 Section 61(5) presently reads:

(5) Where a corporation required by this section to keep records and books of account serves a notice of objection or is a party to an appeal under this Act, that corporation shall retain every record, book of account, account and voucher necessary for dealing with the objection or appeal until, in the case of the serving of a notice of objection, the time provided by section 50 to appeal has elapsed or, in the case of an appeal, until the appeal is disposed of and any further appeal is disposed of or the time for filing any further appeal has expired.

32 Section 73 presently reads:

73(1) If a person acting or purporting to act on behalf of a corporation knowingly or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, makes or participates in, assents to or acquiesces in the making of a false statement or omission in a return, application, certificate, statement or answer filed or made as required by or under this Act or a regulation as a result of which the tax or refundable tax credit that would have been payable by or to the corporation for a taxation year, if the tax or refundable tax credit had been assessed or determined on the basis of the information provided in the return, application, certificate, statement or answer is less or more, as the case may be, than the tax or refundable tax credit payable by or to the corporation for the taxation year, the corporation is guilty of an offence.

33 *Section 75 is repealed and the following is substituted:*

Evasion of tax

75(1) A person who

- (a) makes or participates in, assents to or acquiesces in the making of false or deceptive statements in a return, certificate, statement, application or answer filed or made as required by or under this Act or a regulation,
- (b) to evade payment of a tax imposed by this Act, destroys, alters, mutilates, secretes or otherwise disposes of the records or books of account of a corporation,
- (c) makes or assents to or acquiesces in the making of false or deceptive entries or omits or assents or acquiesces in the omitting to enter a material particular in records or books of account of a corporation,
- (d) to assist a corporation in claiming or attempting to claim a refundable tax credit greater than that to which the corporation is entitled, destroys, alters, mutilates, secretes or otherwise disposes of the records or books of account of a corporation,
- (e) wilfully in any manner evades or attempts to evade compliance with this Act or payment of taxes imposed by this Act,
- (f) wilfully in any manner claims or attempts to claim a refundable tax credit greater than that to which the corporation is entitled, or
- (g) conspires with any person to commit an offence described in clauses (a) to (f)

(2) Where a corporation is guilty of an offence under this section it is liable to a fine of not more than 200% of the amount by which

- (a) the tax payable under this Act by the corporation exceeds the amount declared as tax payable by the corporation, and*
- (b) the refundable tax credit claimed by the corporation exceeds the amount of the refundable tax credit to which the corporation is entitled under this Act.*

33 Section 75 presently reads:

75 *A person who*

- (a) makes or participates in, assents to or acquiesces in the making of false or deceptive statements in a return, certificate, statement or answer filed or made as required by or under this Act or a regulation,*
- (b) 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 corporation in claiming or attempting to claim a refundable tax credit greater than that to which the corporation is entitled,*
- (c) makes or assents to or acquiesces in the making of false or deceptive entries or omits or assents or acquiesces in the omitting to enter a material particular in records or books of account of a corporation,*
- (d) wilfully in any manner evades or attempts to evade compliance with this Act or payment of taxes imposed by this Act, or*
- (e) conspires with any person to commit an offence described in clauses (a) to (d)*

is guilty of an offence and liable to a fine of not more than 200% of the tax sought to be evaded and 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.

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

- (h) to a fine of not more than 200% of the tax sought to be evaded,
- (i) to a fine of not more than 200% of 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
- (j) to a fine under clause (h) or (i) or both and to imprisonment for a term of not more than 2 years.

(2) If a person is convicted of an offence under subsection (1)(e) or (f), he is not liable to pay a penalty under section 37.1 for the same matter unless he is assessed that penalty before the information or complaint giving rise to the conviction is laid or made.

34 *Section 77 is repealed and the following is substituted:*

Communica-
tion of
information

77(1) In this section,

- (a) “person” includes a partnership or firm;
- (b) “tax information” means any information obtained by or on behalf of the Provincial Treasurer under or for the purposes of this Act and includes, without limitation, a tax record;
- (c) “tax record” means any record, return, application, document or instrument, whether in written or electronic form, obtained by or on behalf of the Provincial Treasurer under or for the purposes of this Act.

(2) Except in accordance with subsection (3), no person shall knowingly use or communicate or knowingly allow to be used or communicated any tax information by or to a person who is not legally entitled to receive the tax information whether the tax information is communicated

34 Section 77 presently reads:

77(1) Subject to subsections (1.1), (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.

(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.

- (a) directly or indirectly by the inspection, copying or giving possession of a tax record,
- (b) by the direct or indirect use of the tax information, or
- (c) by any other method.

(3) Subsection (2) does not apply to the communication of tax information or the use of it in accordance with the following:

- (a) to or by a person employed or engaged by the Government in the Alberta Bureau of Statistics if the tax information is statistical in nature and is to be used by the Bureau solely in accordance with section 3 of the *Statistics Bureau Act*;
- (b) to or by a person employed or engaged by the Government in the Department of Consumer and Corporate Affairs if the tax information is that a return or application under this Act has been filed or made by any person;
- (c) to or by a person employed or engaged by the Government or an agent of the Government if the tax information consists of the name, address, occupation or type of business of a person and is to be used solely for the purpose of enabling a department of the Government or an agent of the Government to obtain statistical data for research and analysis;
- (d) to or by a person employed or engaged by the Government in the Treasury Department if the tax information is used solely for the purposes of tax or fiscal policy analysis;
- (e) to or by a corporation if the tax information is in respect of the tax cost of property acquired by that corporation and, because of a provision of this Act or the federal Act, the cost is other than the consideration paid by that corporation;

- (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 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,*
 - (b) *information to employees of the Treasury Department solely for the purposes of tax and fiscal policy analysis, 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.*
- (2.1) *A person employed or engaged in the administration of this Act may, for the purposes referred to, communicate or allow to be communicated information obtained under this Act to the following, or allow the following to inspect or have access to any written statement furnished under this Act:*
- (a) *a person employed in the administration or enforcement of the Petroleum Incentives Program Act, solely for the purposes of administering and enforcing that Act,*
 - (b) *a person employed in the administration or enforcement of the Alberta Rental Investment Grants Program, operated pursuant to regulations made under the Department of Municipal Affairs Act, solely for the purposes of administering and enforcing that program,*
 - (c) *a person employed in the administration or enforcement of the Small Business Equity Corporations Act, solely for the purposes of administering and enforcing that Act,*

- (f) to or by any person if the tax information is in such a form that it cannot, directly or indirectly, be associated with or identify a particular person;
- (g) to or by the Superintendent of Insurance under the *Insurance Act* or a person employed or engaged by the Government in the administration or enforcement of the *Insurance Act* if the tax information is used solely for the purposes of administering or enforcing Part 9 of this Act;
- (h) to or by a person employed or engaged by the Government in the administration or enforcement of this Act or any other taxation statute if the tax information is used solely for the purposes of administering or enforcing this Act or that taxation statute;
- (i) to or by a person employed or engaged by the Government of Canada or the government of a province in the administration or enforcement of a taxation statute of Canada or of a province if
 - (i) the tax information is used solely for the purposes of administering or enforcing the taxation statute,
 - (ii) the Government of Canada or the government of a province supplies the Provincial Treasurer with equivalent information and records on a reciprocal basis, and
 - (iii) all prescribed conditions are complied with;
- (j) to or by a person employed or engaged in the investigation or prosecution of offences under this Act if
 - (i) the person communicating the tax information or allowing the tax information to be communicated believes that an offence may have been committed under this Act, and

- (d) a person employed in the administration or enforcement of the Alberta Stock Savings Plan Act, solely for the purposes of administering and enforcing that Act,*
 - (e) a person employed by the Treasury Department in the administration or enforcement of a taxation statute, solely for the purposes of administering and enforcing that taxation statute, and*
 - (f) a person employed in the administration or enforcement of the Canadian Exploration and Development Incentive Program Act (Canada), solely for the purposes of administering and enforcing that Act.*
- (3) A person who knowingly receives information obtained under this Act holds that information subject to the same restrictions, if any, respecting disclosure of the information that applied to the person from whom the information was obtained.*
- (4) The Provincial Treasurer may, under prescribed conditions, communicate or allow to be communicated information obtained under this Act, or allow inspection of or access to any written statement furnished under this Act to the government of any province or of Canada in respect of which information and written statements obtained by the government of the province or of Canada, for the purpose of a law of the province or of Canada that imposes a tax similar to the tax imposed under this Act, is communicated or furnished on a reciprocal basis to the Provincial Treasurer.*
- (5) A person guilty of an offence under this section is liable to a fine of not more than \$10 000.*

- (ii) the tax information is used solely for the purpose of investigating or prosecuting an offence under this Act or enforcing this Act;
- (k) to or by a person entitled to receive the tax information in a proceeding under the *Provincial Offences Procedure Act*;
- (l) to or by a person employed or engaged in the investigation or prosecution of offences under the *Criminal Code* (Canada) if
 - (i) the person communicating the tax information or allowing the tax information to be communicated believes that an offence may have been committed under this Act,
 - (ii) an order under section 77.1 has been obtained in respect of the tax information, and
 - (iii) the tax information is used solely for the purpose of investigating or prosecuting the offence referred to in the order made under section 77.1;
- (m) to or by a person entitled to receive the tax information in a proceeding under the *Criminal Code* (Canada) in respect of an offence referred to in clause (l);
- (n) to or by a person entitled to receive the tax information in a civil proceeding to which the Government is a party if the tax information is used solely for the purposes of administering or enforcing this Act;
- (o) to or by the person in respect of whom the tax information was received, his legal representative or the agent of either of them authorized in writing to receive the tax information;
- (p) to or by a person employed in the administration or enforcement of the *Small Power Research and Development Act* or the *Utility Companies Income Tax Rebates*

Act, solely for the purposes of administering and enforcing those Acts;

- (q) to or by a justice of the peace or provincial court judge for the purpose of making an application for an order under section 77.1;
- (r) to or by a person employed or engaged by the Government if the tax information is used solely to identify a person to whom money is owed by the Government and the amount of the money so that the Government can set off all or part of the money against an amount owed by that person to the Government.

(4) A person who knowingly receives tax information holds that information subject to the same prohibitions and restrictions, if any, under subsections (2) and (3) respecting communication of the information that applied to the person from whom the information was obtained.

(5) A person who contravenes subsection (2), (3) or (4) is guilty of an offence and is liable to a fine of not more than \$10 000.

Communica-
tion of
information
ordered by
judge

77.1(1) A justice of the peace or provincial judge who is satisfied by affidavit evidence that there are reasonable grounds to believe that tax information lawfully communicated to or obtained by any person will afford evidence with respect to the commission of an offence under the *Criminal Code* (Canada) in respect of which the Government is a person aggrieved may issue an order allowing the tax information to be communicated in accordance with section 77(3)(l).

(2) An application for an order under subsection (1) shall be in writing and may be made ex parte.

(3) Notwithstanding section 77(4), a person to whom tax information has been communicated pursuant to an order obtained under subsection (1) may communicate the tax information to any other person engaged or employed in the investigation or prosecution of offences under the *Criminal Code* (Canada) solely for the purpose of investigating and prosecuting the offence referred to in the order.

35 Section 84(3) is amended

- (a) by striking out “prescribed by order of” and substituting “authorized by”;
- (b) by striking out “acting for him” and substituting “acting for the Provincial Treasurer”.

36 Section 92 is amended

- (a) in subsection (1) by striking out “Part 10” and substituting “Parts 10 and 11”;
- (b) in subsection (1.1)
 - (i) by adding “37.1,” after “1(3) and (4),”;
 - (ii) by striking out “73”;
- (c) in subsection (2)
 - (i) by striking out “(1.1)” and substituting “(1.2)”;
 - (ii) by renumbering clause (a) as (a.1) and by adding the following before clause (a.1):
 - (a) section 39(6) shall be read as if clause (a) read as follows:
 - (a) in the case of a penalty payable by reason of section 90, from the day on or before which the corporation’s return under section 89 was required to be filed to the day of payment,

37 Section 95(1) is amended by striking out “paragraph 215(3)(c) or (d) and Schedules XIII or XIV, as the case may be,” and substituting “section 308”.

35 Section 84(3) presently reads:

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

36 Section 92(1), (1.1) and (2) presently read:

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.

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

(a) section 43 shall be read as if subsections (1)(d)(ii) and (1.1) of that section were struck out,

(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, and

(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,

37 Section 95(1) presently reads:

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,

38 *Section 105 is amended*

- (a) *in subsection (1) by striking out “Part 9” and substituting “Parts 9 and 11”;*
- (b) *in subsection (2)*
 - (i) *by adding “37.1,” after “(8) and (10),”;*
 - (ii) *by striking out “73” and substituting “73.1”;*
- (c) *in subsection (3)*
 - (i) *by renumbering clause (a) as clause (a.1) and by adding the following before clause (a.1):*
 - (a) *section 39(6) shall be read as if clause (a) read as follows:*
 - (a) *in the case of a penalty payable by reason of section 103, from the day on or before which the corporation’s return under section 102 was required to be filed to the day of payment,*
 - (ii) *in clause (a.1) by striking out “(1.1)” and substituting “(1.2)”.*

39 *Section 121(2) is repealed and the following is substituted:*

- (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.

38 Section 105(1), (2) and (3) presently read:

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), (8) and (10), 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 shall be read as if subsections (1)(d)(ii) and (1.1) of that section 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.*

39 Section 121(2) presently reads:

(2) Subject to subsection (3), sections 1(4), 48, 50 to 54, 55(1), 55(3) to (5), 56 to 70, 73, 74 to 79 and 81 to 84 apply to this Part.

(2) Subject to subsection (3), sections 1(4), 37.1, 48, 48.1, 48.2, 50 to 54, 55(1), (3) and (4), 55.1 to 70, 74 to 79 and 81 to 84 apply to this Part.

