

1994 BILL 54

Second Session, 23rd Legislature, 43 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 54

ALBERTA CORPORATE TAX
AMENDMENT ACT, 1994

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 54

1994

ALBERTA CORPORATE TAX AMENDMENT ACT, 1994

(Assented to _____, 1994)

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

Amends RSA
1980 cA-17

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

2(1) Section 26(1.12) is repealed and the following is substituted:

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

- (a) it has Alberta crown royalty in excess of \$2 000 000, or
- (b) it is associated with one or more corporations and the sum of
 - (i) its Alberta crown royalty for that taxation year, and
 - (ii) the aggregate of all amounts each of which is the Alberta crown royalty of a corporation with which it is associated for a taxation year of that corporation that ends in its taxation year

is in excess of \$2 000 000.

(2) Subsection (1) applies in the determination of whether a corporation is a restricted corporation at any particular time after December 31, 1994.

3 Section 26.1 is amended

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

Explanatory Notes

1 Amends chapter A-17 of the Revised Statutes of Alberta 1980.

2 Section 26(1.12) presently reads:

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

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

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

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

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

is in excess of \$2 500 000.

3 Section 26.1(3), (4), (5), (6), (7), (14.2) and (14.3) presently read:

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

(a) if the taxation year ends before January 1, 1995, the lesser of

(i) \$2 500 000, and

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

and

(b) if the taxation year begins after December 31, 1994, the lesser of

(i) \$2 000 000, and

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

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

(3.1) Notwithstanding subsection (3), if a corporation is not associated with one or more corporations in a taxation year and part of the taxation year is before January 1, 1995 and part of it is after December 31, 1994, the crown royalty shelter of the corporation for that taxation year is the aggregate of

(a) the lesser of

(i) \$2 000 000, and

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

and

(b) the proportion of \$500 000 that the number of days in the taxation year before January 1, 1995 bears to 365.

(3.2) Notwithstanding subsection (5), if 2 or more corporations are associated with each other in a taxation year and the taxation year of one of them begins before January 1, 1995 and ends after December 31, 1994, the aggregate of the crown royalty shelters for those corporations for the taxation year in which they are associated is the aggregate of

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

(a) \$2 500 000, and

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

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

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

(a) \$2 500 000, and

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

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

(a) is among all of the corporations, and

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

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

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

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

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

and

- (b) the proportion of \$500 000 that the number of days before January 1, 1995 in the taxation year of the corporation with the greatest number of days before January 1, 1995 bears to 365.

(3.3) Notwithstanding subsection (3), if in a taxation year of a corporation commencing after December 31, 1994 the corporation is not associated with one or more corporations and is a member of one or more partnerships whose fiscal periods ending in that taxation year commenced before January 1, 1995, the crown royalty shelter of the corporation for that taxation year is the aggregate of

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

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

- (b) the amount for each of those partnerships that is equal to the proportion of the aggregate of
 - (i) the lesser of
 - (A) \$2 000 000, and
 - (B) the proportion of \$2 000 000 that the number of days in the fiscal period of that partnership bears to 365,

and

- (ii) the proportion of \$500 000 that the number of days in the fiscal period of that partnership before January 1, 1995 bears to 365,

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

(3.4) Notwithstanding subsections (3) and (3.1), if in a taxation year of a corporation part of which is before January 1, 1995 and part of which is after December 31, 1994 the corporation is not associated with one or more corporations and is a member of one or more partnerships whose fiscal periods ending in that taxation year

- (a) ended in 1994 (in this subsection referred to as a “1994 partnership”), or
- (b) commenced before January 1, 1995 and ended after December 31, 1994 (in this subsection referred to as a “1995 partnership”),

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

- (c) the proportion of the aggregate of
 - (i) the lesser of
 - (A) \$2 000 000, and
 - (B) the proportion of \$2 000 000 that the number of days in the taxation year bears to 365,
 - and
 - (ii) the proportion of \$500 000 that the number of days in the taxation year before January 1, 1995 bears to 365

that the difference between the Alberta crown royalty of the corporation for the year and the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty of the corporation for the year from all the 1994 partnerships and the 1995 partnerships bears to the Alberta crown royalty of the corporation for the year,

(d) an amount for each of the 1994 partnerships that is equal to the proportion of the lesser of

(i) \$2 500 000, and

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

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

(e) an amount for each of the 1995 partnerships that is equal to the proportion of the aggregate of

(i) the lesser of

(A) \$2 000 000, and

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

and

(ii) the proportion of \$500 000 that the number of days in the fiscal period of that partnership before January 1, 1995 bears to 365,

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

(3.5) Notwithstanding subsections (3.2) and (5), if 2 or more corporations are associated with each other in a taxation year and one or more of the corporations is a corporation to which subsection (3.3) or (3.4) would apply if it were not associated with one or more corporations in that taxation year, the aggregate of the crown royalty shelters for those corporations for the taxation year in which they are associated is the greater of

(a) the crown royalty shelter of the corporation with the greatest crown royalty shelter for that taxation year determined pursuant to subsection (3), (3.1), (3.3) or (3.4) as if it were not associated, and

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

(i) the lesser of

(A) \$2 000 000, and

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

and

(ii) the proportion of \$500 000 that the number of days before January 1, 1995 in the taxation year of the corporation with the greatest number of days before January 1, 1995 bears to 365.

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

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

(a) if the taxation year ends before January 1, 1995, the lesser of

(i) \$2 500 000, and

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

and

(b) if the taxation year begins after December 31, 1994, the lesser of

(i) \$2 000 000, and

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

(d) *in subsections (4), (6) and (7) by adding “(3.2), (3.5),” before “(5), (7.02)” wherever it occurs;*

(e) *by repealing subsections (14.2) and (14.3).*

4 Section 26.4(4)(a)(ii) is amended by striking out “26.1(7.03)” and substituting “26.1(3.3), (3.4), (3.5), (7.03)”.

5 Section 106 is amended

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

(b) “crown royalty shelter” means the crown royalty shelter determined under subsection (1.1);

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

(1.1) An individual’s crown royalty shelter

(a) for the 1991, 1992, 1993 and 1994 taxation years, is the lesser of

(i) \$2 500 000, and

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

and

4 Section 26.4(4) presently reads:

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

(a) the product obtained when the lesser of

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

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

is multiplied by

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

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

exceeds

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

5 Section 106(1)(b) presently reads:

106(1) In this Part,

(b) "crown royalty shelter" for the taxation year is the lesser of

(i) \$2 500 000, and

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

(b) for the 1995 and subsequent taxation years, is the lesser of

(i) \$2 000 000, and

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

6 *Section 108(2) and (3) are repealed.*

6 Section 108 presently reads:

108(1) Subject to section 110, an individual is entitled to a royalty credit for a taxation year in the amount obtained when the weighted average rate for that year is multiplied by the lesser of

(a) his Alberta crown royalty for the year, and

(b) his crown royalty shelter for the year.

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

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