

1997 BILL 25

First Session, 24th Legislature, 46 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 25

ALBERTA CORPORATE TAX AMENDMENT ACT, 1997

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 25

1997

ALBERTA CORPORATE TAX AMENDMENT ACT, 1997

(Assented to , 1997)

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2(1) Section 7(4) is repealed.

(2) Subsection (1) applies to taxation years that end after July 19, 1995.

3(1) Section 22.2(5)(b)(ii) is repealed and the following is substituted:

(ii) where the corporation was a Canadian-controlled private corporation throughout the year, the product obtained when the corporation's aggregate investment income for the year (within the meaning assigned by subsection 129(4) of the federal Act) is multiplied by the Alberta allocation factor.

(2) Subsection (1) applies to taxation years that end after June 30, 1995.

4(1) Section 26(1) is amended

Explanatory Notes

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

2 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, either directly or indirectly, 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 directly or indirectly included or deducted, as the case may be, in computing such income or loss for the year or any preceding taxation year under, in accordance with or by reason of any other provision of this Act.

3 Section 22.2(5)(b) presently reads:

(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.

4 Section 26(1)(c) presently reads:

(a) in clause (c) by striking out the portion of clause (c) following subclause (iii)(B) and substituting “where each of the amounts is or is in respect of a qualified royalty;”;

(b) by adding the following after clause (e):

(e.1) “qualified royalty” means a royalty receivable by or payable to the Crown in right of Alberta

(i) under an agreement as defined in the *Mines and Minerals Act* granting petroleum rights, natural gas rights or petroleum and natural gas rights and, for greater certainty, a qualified royalty under this subclause does not include any royalty under an agreement as defined in the *Mines and Minerals Act* granting rights to oil sands as defined in the *Mines and Minerals Act*, or

(ii) pursuant to the *Oil Sands Royalty Regulation, 1984* (AR 166/84) in respect of a prescribed lease;

(2) The royalty receivable by or payable to the Crown in right of Alberta under a lease or other arrangement granting petroleum rights, natural gas rights or petroleum and natural gas rights that is referred to

(a) in section 26(1)(c) of the *Alberta Corporate Tax Act* before the coming into force of section 4(1) of this Act, and

(b) the predecessors of section 26(1)(c)

does not include a royalty receivable by or payable to the Crown in right of Alberta under a lease or other arrangement made under the *Mines and Minerals Act* that grants rights to oil sands as defined in the *Mines and Minerals Act*.

(3) Subsection (2) applies to taxation years beginning after December 31, 1980.

5(1) The following is added after section 30:

Amounts
designated by
mutual fund
trust

30.01 Section 132.1 of the federal Act applies for the purposes of determining the income of a corporation under this Act.

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

26(1) *In this Division,*

(c) *“Alberta crown royalty” of a corporation for a taxation year means the aggregate of*

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

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

less any amount that

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

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

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

and each of which is or is in respect of a royalty receivable by or payable to the Crown in right of Alberta under a lease or licence granting petroleum rights, natural gas rights or petroleum and natural gas rights or is in respect of a royalty receivable by or payable to the Crown in right of Alberta pursuant to the Oil Sands Royalty Regulation, 1984 (Alta. Reg. 166/84) in respect of a prescribed lease;

5 Provision in federal Act dealing with mutual fund trusts made applicable.

6 Section 43 is amended

(a) in subsection (1)(c) by striking out “tax credit,” and substituting “tax credit for a taxation year,”;

(b) in subsection (1)(d)

(i) by striking out “tax credits” and substituting “tax credits for a taxation year”;

(ii) by repealing subclause (i)(B) and substituting the following:

(B) has filed with the Provincial Treasurer a waiver in the prescribed form within

(I) the normal reassessment period for the corporation in respect of the year, or

(II) any other period established by this Act during which the Provincial Treasurer may reassess, make additional assessments of or assess tax, interest or penalties or determine the entitlement to and the amount, if any, of any refundable tax credits,

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

(1.01) A waiver referred to in subsection (1)(d)(i)(B)(II) may be filed only in respect of a matter that may be the subject of the reassessment, assessment or determination referred to in subsection (1)(d)(i)(B)(II).

(d) in subsection (3.1)(b) by adding “or the royalty tax credit gas supplement” after “royalty tax credit”;

(e) by adding the following after subsection (3.2):

(3.3) If, as a result of a notice of objection filed under section 48 or an appeal under section 50, the Provincial Treasurer has vacated or varied an assessment, reassessment, determination or redetermination made under subsection (3.1) in respect of a taxation year, the Provincial Treasurer may, notwithstanding subsection (1), exercise any of the Provincial Treasurer’s powers described in subsection (3.1) in respect of any other taxation year to the extent that the exercise of the powers is reasonably related to the recalculation or additional calculation under section 39 or 39.01 of the *Mines and Minerals Act* referred to in subsection (3.1).

6 Section 43 presently reads in part:

(1) Subject to subsection (2), the Provincial Treasurer

(c) may, at any time, determine the corporation's entitlement to and the amount, if any, of a refundable tax credit, and

(d) may reassess or make additional assessments of or assess tax, interest or penalties under this Act or determine the entitlement to and the amount, if any, of the refundable tax credits

(i) at any time if the corporation filing the return

(A) has made a misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in filing the return or in supplying any information under this Act, or

(B) has filed with the Provincial Treasurer a waiver in the prescribed form within the normal reassessment period for the corporation in respect of the year,

(ii) within the period that ends 3 years after the expiration of the normal reassessment period for the corporation in respect of the year if

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

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

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

(D) there is reason, as a consequence of an additional payment or reimbursement of any income or profits tax to or by the government of a country other than Canada, to assess or

(3.4) The Provincial Treasurer may exercise the powers under subsection (3.3) within one year after the assessment, reassessment, determination or redetermination referred to in subsection (3.3) has been vacated or varied.

7 Section 48(1.1)(a) is amended by adding “(3.3),” after “(3.1),”.

reassess the corporation's tax for any relevant taxation year,

and

(iii) within the normal reassessment period for the corporation in respect of the year in any other case,

except that a reassessment, additional assessment or assessment may be made under subclause (ii) after the normal reassessment period for the corporation in respect of the year only to the extent that it may reasonably be regarded as relating to the assessment, reassessment, transaction, additional payment or reimbursement referred to in subclause (ii).

(3.1) Subject to subsection (3.2), if in a particular taxation year a corporation is notified that, pursuant to section 39 or 39.01 of the Mines and Minerals Act, the Minister of Energy has recalculated or made additional calculations that change an amount referred to in section 26(1)(c)(i) or (ii) for a previous taxation year in respect of which the normal reassessment period has expired, the Provincial Treasurer, notwithstanding subsection (1) and within the normal reassessment period for the particular taxation year, may

- (a) assess, reassess or make additional assessments of tax, interest or penalties with respect to the previous taxation year, and*
- (b) determine or redetermine the entitlement to and the amount, if any, of the royalty tax credit of the corporation for the previous taxation year.*

(3.2) The Provincial Treasurer may assess, reassess or make additional assessments, determinations or redeterminations under subsection (3.1) only to the extent that they are reasonably related to the recalculation or additional calculation under section 39 or 39.01 of the Mines and Minerals Act referred to in subsection (3.1).

Section 48(1.1)(a) presently reads:

(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), (3.1), (4) or (5), 44, 47(4.4) or 72.1(8) 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,*

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

8 Section 50(1.1)(a) is amended by adding “(3.3),” after “(3.1),”.

9 Section 64 is amended

- (a) in subsection (4) by adding “and” at the end of clause (a) and by repealing clauses (c) and (d);**
- (b) in subsection (7) by striking out “subsection (4)(a) to (d)” and substituting “subsection (4)(a) and (b)”.**

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.

8 Section 50(1.1)(a) presently reads:

(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), (3.1), (4) or (5), 44, 47(4.4) or 72.1(8) 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,*

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.

9 Section 64(4) and (7) presently read:

(4) On ex parte application by the Provincial Treasurer, a judge may, subject to the conditions he considers appropriate, authorize the Provincial Treasurer to demand under subsection (1) that a third party provide or produce information or documents relating to 1 or more unnamed persons, in this section referred to as the "group", if the judge is satisfied by information on oath that

- (a) the group is ascertainable,*
- (b) the information or documents are required to verify compliance by the person or persons in the group with any duty or obligation under this Act,*
- (c) it is reasonable to expect, based on any grounds, including information, statistical or otherwise, or past experience relating to the group or any other persons, that any person in the group may have failed or may be likely to fail to provide or produce the information or documents that are sought pursuant to the demand or to comply with this Act otherwise, and*
- (d) the information or documents are not more readily available otherwise.*

(7) On hearing an application under subsection (6), a judge may cancel the authorization previously granted if he is not then satisfied that the conditions in subsection (4)(a) to (d) have been met, and he may confirm or vary the authorization if he is satisfied that those conditions have been met.

10 Section 72.3(1)(a) is amended by striking out “section 43(1)(d)(i)(B)” and substituting “section 43(1)(d)(i)(B)(I)”.

11 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 as authorized by this section, no person shall

- (a) knowingly communicate, or knowingly allow to be communicated, to any person any tax information,
- (b) knowingly allow any person to have access to any tax information, or
- (c) knowingly use any tax information otherwise than for the purpose for which it was provided under this section.

(3) Subsection (2) applies whether the tax information is communicated

- (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.

10 Section 72.3(1)(a) presently reads in part:

72.3(1) If the Provincial Treasurer serves a notice under section 72.2(1) on a corporation, for the purposes of section 43,

- (a) the corporation is deemed to have filed a waiver in accordance with section 43(1)(d)(i)(B) in respect of the taxation year referred to in the notice, and section 43(3) shall be read as if the corporation had filed a notice of revocation of the waiver*

11 Section 77 presently reads:

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

- (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 the Registrar of Corporations or the Registrar of Companies or a person employed or engaged by the Government and under the administration of either of*

- (4) Subsection (2) does not apply in respect of
- (a) criminal proceedings, either by indictment or on summary conviction, that have been commenced by the laying of an information or the preferring of an indictment under an Act of Parliament,
 - (b) proceedings under the *Provincial Offences Procedure Act*, or
 - (c) any legal proceedings relating to the administration or enforcement of this Act or any other Act of Alberta that provides for the imposition or collection of a tax.
- (5) Tax information may be communicated as follows:
- (a) to a person employed or engaged by the Government of Alberta if the tax information is
 - (i) statistical in nature and to be used solely in accordance with section 3 of the *Statistics Bureau Act*;
 - (ii) to be used solely by an employee under the administration of the Registrar of Corporations or the Registrar of Companies to confirm that a return or application under this Act has been filed or made by any person;
 - (iii) to be used solely for the purposes of the formulation or analysis of tax or fiscal policy;
 - (iv) to be used solely for the purposes of administering or enforcing this Act or any other taxation statute of Alberta, the *Small Power Research and Development Act*, the *Utility Companies Income Tax Rebates Act* or Division 2 of Part 5 of the *Hospitals Act*;
 - (v) to be used solely to identify a person to whom money is owed by the Government and to determine the amount of the money so that the Government can set off all or part of the money owed against amounts owing by that person to the Government;
 - (b) to 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 that province if

those Registrars 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;*
- (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 tax information is used solely for the purposes of administering or enforcing the taxation statute, and
 - (ii) the Government of Canada or the government of that province supplies the Provincial Treasurer with equivalent information and records on a reciprocal basis;
- (c) to an employee or agent of the Government of Canada or the government of a province
 - (i) if the tax information consists of the name, address, occupation and size or type of business of a person and is to be used solely for the purposes of enabling a department or agent of the Government of Canada or the government of that province to obtain statistical data for research and analysis, or
 - (ii) if the tax information consists of the identifying number, name, address, telephone number and facsimile number of an identifying number holder and is to be used solely for the purpose of the administration or enforcement of an Act of Parliament or a law of a province, if the holder of the identifying number is required by that Act or that law to provide the information, other than the identifying number, to the department or agency;
- (d) to a person to be used solely in the investigation or prosecution of offences under this Act;
- (e) to a justice of the peace or provincial court judge for the purpose of making an application for an order under section 77.1;
- (f) to a person employed or engaged in the investigation or prosecution of offences under the *Criminal Code* (Canada) if
 - (i) an order under section 77.1 has been obtained in respect of the tax information, and
 - (ii) 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;

- (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*
- (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*

- (g) to a corporation if the tax information is in respect of
 - (i) the status, for purposes of section 26(1)(h), of property acquired by the corporation, or
 - (ii) the tax cost of property acquired by that corporation if, because of a provision of this Act or the federal Act, the cost is other than the consideration paid by that corporation;
- (h) to the person in respect of whom the information was received or any other person if the person in respect of whom the information was received authorizes in writing its release;
- (i) to 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.

(6) A person who knowingly receives tax information holds that information subject to the same prohibitions and restrictions, if any, under subsections (2), (3) and (5) respecting communication of the information that applied to the person from whom the information was obtained.

(7) Subsection (6) does not apply to tax information provided under subsection (5)(g), (h) or (i).

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

(9) A person to whom tax information has been provided for a particular purpose under subsection (5)(a) to (f) and who for any other purpose knowingly uses, communicates to any person, allows the communication to any person of, or allows any person access to, that information is guilty of an offence and liable to a fine of not more than \$10 000.

12 Section 77.1 is amended

- (a) in subsection (1) by striking out “section 77(3)(l)” and substituting “section 77(5)(f)”;**
- (b) in subsection (3) by striking out “section 77(4)” and substituting “section 77(6)”.**

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.

12 Section 77.1 presently reads in part:

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)(1).

13 Section 93(1) is amended

- (a) in clause (a)(ii) by striking out “section 97(b)” and substituting “section 97(1)(b)”;**
- (b) in clause (i.1) by striking out “under this Part” and substituting “under section 97”.**

14 Section 97 is amended

- (a) by renumbering it as section 97(1);**
- (b) by adding the following after subsection (1):**

(2) Notwithstanding subsection (1), the tax payable by

- (a) a resident corporation whose taxation year is less than 365 days, or
- (b) a non-resident corporation whose taxation year is less than 365 days and whose taxable paid-up capital employed in Canada for the taxation year is calculated using the amount referred to in section 96(1)(b)

is the product obtained by multiplying the amount calculated under subsection (1) by the ratio of the number of days in the taxation year to 365.

(3) Notwithstanding subsections (1) and (2), the tax payable by a credit union is the lesser of

(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.

13 Section 93(1)(a) and (i.1) presently read:

93(1) In this Part,

(a) "accounting income allocated to Alberta" of a corporation for a taxation year means the difference between

(i) the accounting income before income taxes and capital taxes that is determined in accordance with generally accepted accounting principles and reported in the corporation's financial statements for the year, and

(ii) the amount that is the same proportion of the amount referred to in subclause (i) that the amount referred to in section 97(b) is of the amount taxable of the corporation;

(i.1) "specified capital tax otherwise payable" means the tax that would be payable under this Part if the references to "amount taxable" in section 97 were read as references to "specified taxable paid-up capital";

14 Section 97 presently reads:

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

(a) its amount taxable, and

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

- (a) the amount calculated under subsections (1) and (2),
and
- (b) \$100.

15 Sections 98 and 99 are repealed.

16 Section 99.1 is amended

- (a) by striking out** “Notwithstanding section 97, the” **and substituting** “The”;
- (b) in clause (a) by striking out** “otherwise payable under this Part” **and substituting** “payable under section 97”;
- (c) in clauses (c)(i) and (d)(i) by striking out** “the tax otherwise payable under this Part” **and substituting** “the tax payable under section 97”;
- (d) in clause (e) by striking out** “corporation’s capital tax otherwise payable” **and substituting** “corporation’s tax payable under section 97”.

15 Sections 98 and 99 presently read:

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

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

- (a) the tax otherwise payable under this Part, and*
- (b) \$100.*

16 Section 99.1 presently reads:

99.1 Notwithstanding section 97, the tax payable under this Part for a taxation year by a qualified corporation shall be reduced by the following amounts where applicable:

- (a) where the corporation is described in section 93(1)(h.1)(i) but not in section 93(1)(h.1)(ii) and has taxable paid-up capital of not more than \$100 000 000, the amount, if any, by which the tax otherwise payable under this Part exceeds 10% of the corporation's accounting income allocated to Alberta for the year;*
- (b) where the corporation is described in section 93(1)(h.1)(i) but not in section 93(1)(h.1)(ii) and has taxable paid-up capital of more than \$100 000 000 but not more than \$200 000 000, the amount determined using the following formula:*

$$A \frac{A(TPUC-100\ 000\ 000)}{100\ 000\ 000}$$

where

A is the amount calculated under this section as if clause (a) applied to the corporation in respect of that taxation year, and

17 Section 100 is repealed.

18 Sections 13 to 17 apply to taxation years that end after April 30, 1997.

19 Section 101(3) is repealed.

TPUC is the taxable paid-up capital of the corporation for the year;

- (c) where the corporation is a special qualified corporation and has taxable paid-up capital of not more than \$100 000 000, the aggregate of
 - (i) the amount by which the tax otherwise payable under this Part exceeds the specified capital tax otherwise payable, and*
 - (ii) the amount, if any, by which the specified capital tax otherwise payable exceeds 10% of the corporation's accounting income allocated to Alberta for the year;**
- (d) where the corporation is a special qualified corporation and has taxable paid-up capital of more than \$100 000 000 but not more than \$200 000 000, the greater of
 - (i) the amount by which the tax otherwise payable under this Part exceeds the specified capital tax otherwise payable, and*
 - (ii) the amount determined under clause (b) as if that clause applied to the corporation;**
- (e) where the corporation is described in section 93(1)(h.1)(ii) but not in section 93(1)(h.1)(i), the amount by which the corporation's capital tax otherwise payable exceeds the corporation's specified capital tax otherwise payable.*

17 Section 100 presently reads:

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

(2), (3) Repealed 1995 c3 s29.

18 Application of financial institutions capital tax amendments.

19 Section 101(3) presently reads:

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

20(1) Section 106(1) is amended

(a) in clause (a) by striking out the portion of clause (a) following subclause (iii)(B) and substituting “where each of the amounts is or is in respect of a qualified royalty;”;

(b) by adding the following after clause (c):

(c.1) “qualified royalty” means a royalty receivable by or payable to the Crown in right of Alberta

(i) under an agreement as defined in the *Mines and Minerals Act* granting petroleum rights, natural gas rights or petroleum and natural gas rights and, for greater certainty, a qualified royalty under this subclause does not include any royalty under an agreement as defined in the *Mines and Minerals Act* granting rights to oil sands as defined in the *Mines and Minerals Act*, or

(ii) pursuant to the *Oil Sands Royalty Regulation, 1984* (AR 166/84) in respect of a prescribed lease;

(2) The royalty receivable by or payable to the Crown in right of Alberta under a lease or other arrangement granting petroleum rights, natural gas rights or petroleum and natural gas rights that is referred to in

(a) section 106(1)(a) of the *Alberta Corporate Tax Act* before the coming into force of section 18(1) of this Act, and

(b) the predecessors of section 106(1)(a), including predecessor provisions in the *Alberta Income Tax Act*,

does not include a royalty receivable by or payable to the Crown in right of Alberta under a lease or other arrangement made under the *Mines and Minerals Act* that grants rights to oil sands as defined in the *Mines and Minerals Act*.

(3) Subsection (2) applies to 1981 and subsequent taxation years.

21 Section 119 is amended by adding the following after subsection (2):

(2.1) Subject to subsection (2.2), if in a particular taxation year an individual is notified that, pursuant to section 39 or 39.01 of the *Mines and Minerals Act*, the Minister of Energy

20 Section 106(1)(a) presently reads:

106(1) In this Part,

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

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

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

less any amount that

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

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

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

and each of which is or is in respect of a royalty receivable by or payable to the Crown in right of Alberta under a lease or licence granting petroleum rights, natural gas rights or petroleum and natural gas rights or in respect of a royalty receivable by or payable to the Crown in right of Alberta pursuant to the Oil Sands Royalty Regulation, 1984 (Alta. Reg. 166/84) in respect of a prescribed lease;

21 Section 119(2) presently reads:

(2) The Provincial Treasurer may reassess, make additional assessments of, or assess interest or penalties under this Part or redetermine the entitlement to and the amount, if any, of the royalty credit or royalty credit gas supplement

has recalculated or made additional calculations that change an amount referred to in section 106(1)(a)(i) or (ii) for a previous taxation year in respect of which the period referred to in subsection (2)(b) has expired, the Provincial Treasurer, notwithstanding subsection (2), within the period referred to in subsection (2)(b) for the particular taxation year, may

- (a) assess, reassess or make additional assessments of interest or penalties under this Part with respect to the previous taxation year, and
- (b) determine or redetermine the entitlement to and the amount of the royalty credit or royalty credit gas supplement, if any, of the individual for the previous taxation year.

(2.2) The Provincial Treasurer may assess, reassess or make additional assessments, determinations or redeterminations under subsection (2.1) only to the extent that they are reasonably related to the recalculation or additional calculation under section 39 or 39.01 of the *Mines and Minerals Act* referred to in subsection (2.1).

(2.3) If as a result of a notice of objection filed under section 48 or an appeal under section 50, the Provincial Treasurer has vacated or varied an assessment, reassessment, determination or redetermination made under subsection (2.1) in respect of a taxation year, the Provincial Treasurer may, notwithstanding subsection (2), exercise any of the Provincial Treasurer's powers described in subsection (2.1) in respect of any other taxation year to the extent that the exercise of the powers is reasonably related to the recalculation or additional calculation under section 39 or 39.01 of the *Mines and Minerals Act* referred to in subsection (2.1).

(2.4) The Provincial Treasurer may exercise the powers under subsection (2.3) within one year after the assessment, reassessment, determination or redetermination referred to in subsection (2.3) has been vacated or varied.

(a) at any time, if the individual filing an application for a royalty credit or royalty credit gas supplement

(i) has made a misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in filing the application or in supplying any information under this Act, or

(ii) has filed with the Provincial Treasurer a waiver in the prescribed form within 3 years from the day of mailing of a notice of an original determination for a taxation year,

or

(b) in any other case within 3 years from the day referred to in clause (a)(ii).