

1998 BILL 44

Second Session, 24th Legislature, 47 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 44

TAX STATUTES AMENDMENT ACT, 1998

THE PROVINCIAL TREASURER

First Reading
Second Reading
Committee of the Whole
Third Reading
Royal Assent

BILL 44

1998

TAX STATUTES AMENDMENT ACT, 1998

(Assented to _____, 1998)

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

Alberta Corporate Tax Act

Amends RSA
1980 cA-17

1(1) The *Alberta Corporate Tax Act* is amended by this section.

(2) Section 1 is amended

(a) in subsection (1) by striking out “(2)(f), (g), (h)” and substituting “(2)(b.1), (f), (g), (h), (h.1)”;

(b) in subsection (2)

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

(b.1) “balance-due day” of a corporation for a taxation year means the day on or before which the corporation is required under section 38 to pay the remainder of its tax payable under Part 5 for the year or would be so required if such a remainder were payable;

(ii) by adding the following after clause (d):

(d.1) “federal action” means a determination of an amount made by the Minister of National Revenue under subsection 152(1.11) of the federal Act or an assessment, reassessment or additional assessment made by the Minister of National Revenue under section 245 of the federal Act;

(iii) by adding the following after clause (h):

Explanatory Notes

Alberta Corporate Tax Act

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

(2) Section 1(1) presently reads:

1(1) In this Act and in the application of the provisions of the federal Act and the regulations made under that Act that are by this Act made applicable, each of the provisions of Part XVII of the federal Act apply for the purposes of this Act, except for those terms defined in subsection (2)(f), (g), (h) and (i) of this Act and the definition of “regulation” contained in subsection 248(1) of the federal Act.

(h.1) “specified future tax consequence” for a taxation year means specified future tax consequence as defined in subsection 248(1) of the federal Act, except that the following replaces paragraph (a) of that definition:

(a) the consequence of the deduction or exclusion of an amount referred to in section 39(3)(a) of the *Alberta Corporate Tax Act*, and;

(3) Subsection (2)(b)(iii) applies to the 1996 and subsequent taxation years and, for taxation years that ended before 1996, there are deemed to be no specified future tax consequences.

(4) Section 8 is amended

(a) by repealing subsection (2.001) and substituting the following:

(2.001) In the application of subsection 12(1) of the federal Act,

(a) the reference in paragraph (o) to “or in respect of the late receipt or non-receipt of any such amount” does not apply for the purposes of this Act, and

(b) paragraph (x.1) does not apply for the purposes of this Act.

(b) in subsection (2.01) by striking out “and” at the end of clause (a) and by repealing clause (b) and substituting the following:

(b) the reference in paragraph (m) to “or in respect of the late payment or non-payment of any such amount” does not apply for the purposes of this Act, and

(c) paragraph (t) does not apply for the purposes of this Act.

(5) Section 8(2.001)(a) as enacted by subsection (4)(a) and section 8(2.01)(b) as enacted by subsection (4)(b) apply to taxation years that begin after 1996.

(6) Section 20 is amended

(a) in subsection (1)(f)

(3) Application of definition of specified future tax consequences.

(4) Section 8(2.001) and (2.01) presently read:

(2.001) Paragraph 12(1)(x.1) of the federal Act does not apply for the purposes of this Act.

(2.01) In the application of subsection 18(1) of the federal Act,

(a) paragraph (a) shall be read as if “including but not limited to any tax payable under Part 1 of this Act, any tax payable under the federal Act, any tax similar to that imposed under Part 1 of this Act that is imposed by a province or any interest or penalties payable in respect of any of them” were added after “outlay or expense”, and

(b) paragraph (t) does not apply.

(5) Application of subsection (4).

(6) Section 20(1)(f) and (7) presently read:

20(1) In this section, “attributed Canadian royalty income” of a corporation for a taxation year in which it had a permanent

- (i) **by striking out “taxpayer” and substituting “corporation”;**
- (ii) **by striking out “his” wherever it occurs and substituting “its”;**
- (b) **in subsection (7) by adding “(d.1),” after “(d),”.**

(7) The following is added after section 20:

Special
definition for
s20

20.1(1) Notwithstanding section 20(1), in section 20(2) to (7), “attributed Canadian royalty income” of a corporation for a taxation year commencing in 1998, 1999, 2000 or 2001 in which it had a permanent establishment in Alberta means the amount, if any, by which the aggregate of

- (a) the amounts required to be included in computing the corporation’s income for the year by virtue of paragraph 12(1)(o) of the federal Act,
- (b) the amounts 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, other than amounts described in the definition of “Canadian development expense” in subsection 66.2(5) of the federal Act or the definition of “Canadian oil and gas property expense” in subsection 66.4(5) of the federal Act,
- (c) any amounts by which the fair market value, as determined under subsection 69(8) of the federal Act, of petroleum, natural gas or related hydrocarbons or metal or minerals disposed of under dispositions referred to in subsection 69(6) of the federal Act exceeds the proceeds of disposition, if any, actually received by it in respect of the petroleum, natural gas or related hydrocarbons or metal or minerals so disposed of,
- (d) any amounts by which the amount referred to in subsection 69(7) of the federal Act in respect of acquisitions of petroleum, natural gas or related

establishment in Alberta means the amount, if any, by which the aggregate of

exceeds the aggregate of

(f) the amount of any reimbursement received by the corporation under the terms of a contract, where the reimbursement was for an amount paid or payable by the taxpayer that is required to be included in computing his income or denied as a deduction in computing his income by virtue of paragraph 12(1)(o) or 18(1)(m) of the federal Act in respect of oil or gas wells or bituminous sands deposits, oil sands deposits or coal deposits.

(7) If a corporation is a member of a partnership, in computing for a taxation year each of the amounts described in subsection (1)(a), (b), (c), (d), (e) and (f), it shall include its share of each of those amounts of the partnership, calculated as if the partnership were a corporation.

(7) Establishes the definition of attributed Canadian royalty income for tax years commencing in 1998 to 2001.

hydrocarbons or metal or minerals referred to in that subsection exceeds the fair market value, as determined under subsection 69(9) of the federal Act, of the petroleum, natural gas or related hydrocarbons or metal or minerals so acquired, and

- (d.1) any amount that would be deemed to have been payable in the year by a trust to the corporation as beneficiary of the trust under subsection 104(29) of the federal Act if the reference in that subsection to paragraph 18(1)(l.1) were struck out,

exceeds the aggregate of

- (e) the amount allowed to the corporation for the year under section 8 in its adoption of paragraph 20(1)(v.1) of the federal Act, and
- (f) the amount of any reimbursement received by the corporation under the terms of a contract, where the reimbursement was for an amount paid or payable by the corporation that is required to be included in computing its income or denied as a deduction in computing its income by virtue of paragraph 12(1)(o) or 18(1)(m) of the federal Act.

(2) For taxation years commencing in 1998, 1999, 2000 or 2001, the amounts referred to in section 20(7) are the corresponding amounts referred to in subsection (1) of this section.

(8) Section 22.2(1)(h) is amended

(a) by repealing subclause (iv) and substituting the following:

- (iv) operating an oil or gas well or extracting petroleum or natural gas from a natural accumulation of petroleum or natural gas,

(b) by repealing subclauses (vi) to (viii) and substituting the following:

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

(8) Section 22.2(1)(h)(iv), (vi) to (viii) and (x) presently read:

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

(h) “manufacturing or processing” does not include

(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,

(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,

(B) iron ore from a mineral resource located in Canada to any stage that is not beyond the pellet stage or its equivalent, or

(C) tar sands ore from a mineral resource located in Canada to any stage that is not beyond the crude oil stage or its equivalent,

(vii) producing industrial minerals,

(c) by repealing subclause (x) and substituting the following:

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

(x.1) 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,

(x.2) Canadian field processing, or

(9) Subsection (8) applies to taxation years that begin after 1996.

(10) Section 34 is amended

(a) in subsection (1) by striking out “, 141.1, 142 and 142.1” and substituting “and 141.1”;

(b) by repealing subsection (2).

(11) Subsection (10)(a) applies to the 1997 and subsequent taxation years and subsection (10)(b) applies to the 1996 and subsequent taxation years.

(12) Section 35 is amended

(a) by repealing subsection (2.1) and substituting the following:

(2.1) Subject to subsection (2.2), subsection (1) applies to an insurer described in paragraph 149(1)(t) of the federal Act only in respect of the part of its taxable income for a taxation year determined by the formula

- (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,*
- (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*

(9) Application of subsection (8).

(10) Section 34(1) and (2) presently read:

34(1) Subject to subsections (2) and (3), the rules provided in sections 138, 138.1, 140, 141, 141.1, 142 and 142.1 of the federal Act apply in computing the taxable income of insurance corporations for the purposes of this Act.

(2) In the application of subsection 138(7) for the purposes of this Act the reference in paragraph (a) to "this Part" shall be deemed to be a reference to "Part I of the federal Act".

(11) Application of subsection (10).

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

(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*

$$\frac{A \times B \times C}{D}$$

where

A is its taxable income for the year;

B is

(a) $\frac{1}{2}$, where less than 25% of the total of the gross premium income (net of reinsurance ceded) earned in the year by it and, where it is not a prescribed insurer for the purpose of paragraph 149(1)(t) of the federal Act, by all other insurers that

(i) are specified shareholders of the insurer,

(ii) are related to the insurer, or

(iii) where the insurer is a mutual corporation, are part of a group that controls, directly or indirectly in any manner whatever, or are controlled, directly or indirectly in any manner whatever by, the insurer,

is in respect of insurance of property used in farming or fishing or residences of farmers or fishermen, and

(b) 1 in any other case;

C is the part of the gross premium income (net of reinsurance ceded) earned by it in the year that, in the opinion of the Provincial Treasurer, is in respect of insurance of property used in farming or fishing or residences of farmers or fishermen;

D is the gross premium income (net of reinsurance ceded) earned by it in the year.

(b) by striking out that portion of subsection (2.2) that follows clause (c) and substituting the following:

is in respect of insurance of property used in farming or fishing or residences of farmers or fishermen.

(c) by adding the following after subsection (4):

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.

(5) Notwithstanding subsection (3), if at any time (the “particular time”) a corporation that is a federal Crown corporation prescribed under the federal regulations for the purposes of section 27 of the federal Act or a wholly-owned corporation subsidiary to such a corporation ceases to be exempt from tax under this Act, the following rules apply:

- (a) the taxation year of the corporation for the purposes of the federal Act that includes the particular time is the first taxable taxation year of the corporation for the purposes of this Act;
- (b) the taxable income of the corporation for the first taxable taxation year is the taxable income of the corporation under the federal Act for the same taxation year;
- (c) the income tax payable with respect to the amount taxable in Alberta of the corporation for the first taxable taxation year is that proportion of the tax otherwise payable that the number of days in the first taxable taxation year following the particular time bears to the total number of days in the first taxable taxation year.

(13) Subsection (12)(a) and (b) apply to the 1996 and subsequent taxation years.

(14) Subsection (12)(c) is deemed to have come into force on January 1, 1995.

(15) The following is added before section 37:

Duty to file
new
information

36.2(1) If there has been an assessment action as defined in section 43(1.1) in respect of a corporation for a taxation year, the corporation shall, within 90 days from the later of the date of the assessment action and the required filing date under section 36(1), file with the Provincial Treasurer all information provided to the corporation under the federal Act or a statute of a province with respect to the assessment action.

(2) If a corporation discovers an error was made in the information contained in a return filed with the Provincial Treasurer in respect of a taxation year and the error was discovered within the normal reassessment period as defined in section 43(0.1) for that taxation year, the corporation shall, within 90 days from the later of the date of discovering the error and the required filing date under section 36(1), file with the Provincial Treasurer an amended

(13) Application of subsection (12)(a) and (b).

(14) Application of subsection (12)(c).

(15) Establishes duty to file information, an amended return or a return.

return for that taxation year disclosing the error and showing the corrections.

(3) If a corporation did not file a return for a taxation year pursuant to section 36(1.1) and subsequently determines, within the normal reassessment period as defined in section 43(0.1) for the taxation year, that it was not exempt from filing a return for that taxation year, the corporation shall, within 90 days from the later of the date of determining that it was not exempt and the required filing date under section 36(1), file with the Provincial Treasurer a return for that taxation year.

(16) Section 37 is amended

(a) in subsection (1)

(i) by repealing clause (a) and substituting the following:

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

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

(ii) the amounts paid or applied to the corporation under section 26.4 for the year

exceeds the aggregate of

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

(iv) 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

(ii) in clause (b) by striking out “aggregate of the amounts referred to in clause (a)(i) and (ii)” and substituting “amount by which the aggregate of clause (a)(i) and (ii) exceeds the aggregate of clause (a)(iii) and (iv)”;

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

(16) Section 37 presently reads:

37(1) 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.

(2) In determining a corporation's tax for a taxation year for the purpose of computing a penalty under subsection (1) in respect

(2) For the purpose of computing a penalty under subsection (1) in respect of a corporation's return of income for a taxation year, the corporation's tax payable for the year shall be determined before taking into consideration the specified future tax consequences for the year.

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

(3) Notwithstanding subsection (1), when a corporation has failed to comply with section 36.2, the corporation is liable to a penalty equal to the aggregate of

(a) 5% of the aggregate of any increase in tax and reduction in a refundable credit for that taxation year that was unpaid at the end of the 90-day period referred to in section 36.2, and

(b) the product obtained when 1% of the aggregate of any increase in tax and reduction in a refundable credit for that taxation year that was unpaid at the end of the 90-day period referred to in section 36.2 is multiplied by the number of complete months, not exceeding 12, in the period between the date on which the information, amended return or return was required to be filed under section 36.2 and the date on which it was filed.

(4) Where, in an appeal under this Act, any penalty assessed by the Provincial Treasurer under subsection (3) is in issue, the burden of establishing the facts justifying the assessment of the penalty is on the Provincial Treasurer.

(17) Subsection (16)(a) applies in respect of an assessment, reassessment or additional assessment made after subsection (16)(a) comes into force.

(18) Subsection (16)(b) applies to the 1996 and subsequent taxation years.

(19) Section 38 is amended

(a) in subsection (1.1)

(i) **in clause (a) by adding** "determined before taking into consideration the specified future tax consequences for the year" **after** "taxable income";

(ii) **in clause (b) by adding** "determined before taking into consideration the specified future tax consequences for that preceding year" **after** "taxable income";

of the corporation's return of income for the year, section 39(3)(a) applies.

(17) Application of subsection (16)(a).

(18) Application of subsection (16)(b).

(19) Section 38(1.1), (1.2) and (8) presently read:

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

(b) in subsection (1.2) by striking out “before the deduction or exclusion of any of the amounts referred to in section 39(3)(a)” and substituting “(determined before taking into consideration the specified future tax consequences for the year)”;

(c) by repealing subsection (8) and substituting the following:

(8) A corporation shall in respect of its taxation year pay to the Provincial Treasurer on or before its balance-due day for the year the amount, if any, by which the aggregate of the amounts paid by the Provincial Treasurer under section 26.4 for the year exceeds the royalty tax credit for the year to which the corporation is entitled.

(20) Subsection (19)(a) and (b) apply to the 1996 and subsequent taxation years.

(21) Section 39 is amended

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

Interest

39(1) A corporation shall pay to the Provincial Treasurer in respect of a taxation year and in respect of the period beginning on its balance-due day for the year and ending,

(a) if there is an overpayment for the year, immediately before 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 interest at the prescribed rate on the amount of the corporation's tax for the year,

(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.

(1.2) Notwithstanding subsection (1), where the first instalment base of the corporation for a taxation year or the tax payable by the corporation for the taxation year before the deduction or exclusion of any of the amounts referred to in section 39(3)(a) is not more than \$2000, the corporation may pay all of its tax payable for the year on or before

(a) the end of the 3rd month following the year, if the corporation is a Canadian-controlled private corporation throughout the year, or

(b) the end of the 2nd month following the year, in any other case.

(8) A corporation shall pay to the Provincial Treasurer on or before

(a) the end of the 3rd month following the taxation year, if subsection (1.1) or (1.2)(a) applies, or

(b) the end of the 2nd month following the taxation year in any other case,

the amount, if any, by which the aggregate of the amounts paid by the Provincial Treasurer under section 26.4 for the year exceeds the royalty tax credit for the year to which the corporation is entitled.

(20) Application of subsection (19).

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

39(1) A corporation shall pay to the Provincial Treasurer in respect of a taxation year and in respect of the period beginning on the day on or before which the corporation is required to make a payment under section 38(1)(b), (1.1) or (1.2) and ending,

(a) if there is an overpayment for the year, immediately before 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

computed from the beginning to the end of the period, together with interest at the prescribed rate on the aggregate of the amounts paid by the Provincial Treasurer under section 26.4 for the year computed from the beginning to the end of the period exceeds the aggregate of

- (c) the aggregate of all amounts, each of which is interest at the prescribed rate on an instalment of tax paid by the corporation in respect of 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,
- (d) interest at the prescribed rate on the royalty tax credit instalments for the year to which the corporation would have been entitled under section 26.4 if it had applied for instalments, computed from the beginning to the end of the period, and
- (e) interest at the prescribed rate on the aggregate of the amounts paid by the corporation under section 38(8) 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.

(b) by repealing subsection (1.1);

(c) in subsection (2) by striking out “the day on or before which the corporation is required to make a payment under section 38(1)(b), (1.1) or (1.2)” and substituting “its balance-due day for the year”;

(d) in subsection (4)(a) by adding “determined before taking into consideration the specified future tax consequences for the year,” after “year,”;

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

(5.1) If the tax payable under this Act by a corporation for a taxation year is more than it otherwise would be because of a consequence for the year described in paragraph (b) of the definition of “specified future tax consequence” in subsection 248(1) of the federal Act in respect of an amount purported to be renounced in a calendar year, for the purposes of the provisions of this Act (other than this subsection) relating to interest payable under this Act, an amount equal to the additional tax payable is deemed

- (a) to have been paid on the corporation’s balance-due day for the taxation year on account of the

- (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 in respect of the year computed from the day that is the later of the beginning of the period and the day of payment to the end of the period.*

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

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

exceeds the aggregate of

- (b) *the royalty tax credit for the year to which the corporation is entitled, and*
(c) *the aggregate of the amounts paid by the corporation before that time under section 38(8) for the year,*

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

(2) *In addition to the interest payable under subsection (1), a corporation shall pay to the Provincial Treasurer, in respect of a taxation year and in respect of the period beginning on the first day of the year and ending on the day on or before which the corporation is required to make a payment under section 38(1)(b), (1.1) or (1.2), 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

corporation's tax payable under this Act for the year, and

- (b) to have been refunded on April 30 of the following calendar year to the corporation on account of the corporation's tax payable under this Act for the taxation year.

(f) in subsection (6)(b) by striking out “the day on or before which the corporation is required under section 38 to pay the remainder of its tax” **and substituting** “the corporation's balance-due day”.

(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 computed from the last day of the month to the end of the period.

(4) For the purposes of subsection (2) and section 73.1, 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 on or before each day referred to in section 38(1)(a)(i) to (iii) a part or instalment computed by reference to

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

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

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

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

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

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

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

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

(22) Subsection (21)(d) and (e) apply to the 1996 and subsequent taxation years.

(23) Section 41 is amended by adding the following after subsection (1.11):

(1.111) When the Provincial Treasurer makes a determination of an amount under subsection (1.11) that is based on a federal action, the Provincial Treasurer shall designate the determination as being based on the federal action.

(24) Section 43 is amended

(a) in subsection (1)(d)(i) by striking out “or” at the end of paragraph (A), by adding “or” at the end of paragraph (B) and by adding the following after paragraph (B):

(C) has failed to comply with section 36.2,

(b) by repealing subsection (1.2) and substituting the following:

(1.2) Notwithstanding subsection (1), not more than 12 months after

(a) a corporation files information under section 36.2(1) for a particular taxation year as a result of an assessment action, or

(b) a corporation files an amended return or return under section 36.2(2) or (3) for a particular taxation year,

the Provincial Treasurer, in respect of the particular taxation year or any 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 purposes of this Act, may

(22) Application of subsection (21).

(23) Section 41(1.11) presently reads:

(1.11) Where at any time the Provincial Treasurer ascertains the tax consequences to a corporation by reason of section 72.1(2) with respect to a transaction, the Provincial Treasurer

(a) shall, in the case of a determination pursuant to section 72.1(8), or

(b) may, in any other case,

determine any amount that is relevant, for the purposes of computing the income, taxable income, taxable income earned in Canada or amount taxable in Alberta of, tax, refundable tax credit or other amount payable by, or amount refundable to, the corporation under this Act, and where such a determination is made, the Provincial Treasurer shall send to the corporation, with all due dispatch, a notice of determination stating the amount so determined.

(24) Section 43(1)(d), (1.2) and (2) presently read:

43(1) Subject to subsection (2), the Provincial Treasurer

(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 for a taxation year

(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

(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

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

(1.21) If the Provincial Treasurer becomes aware that there has been an assessment action in respect of a corporation, the Provincial Treasurer may exercise the powers in subsection (1.2)(c), (d) and (e) with respect to that corporation before the corporation files information under section 36.2(1) in respect of that assessment action.

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

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

- (a) in the case of a reassessment, additional assessment or assessment made as a result of a misrepresentation that is attributable to neglect, carelessness or wilful default or from any fraud in filing a return or supplying any information under this Act, the corporation establishes that the failure to include the amount did not result from such a misrepresentation or fraud,
- (b) in the case of a reassessment, additional assessment or assessment made as a result of an assessment action, the corporation establishes that the amount cannot be reasonably regarded as relating to the assessment action,
- (c) in the case of a reassessment, additional assessment or assessment made as a result of a waiver filed by the corporation in the form and within the time referred to in subsection (1)(d)(i)(B), the corporation establishes that the amount cannot be reasonably

and the amount, if any, of any refundable tax credits,

- (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 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).

(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 taxation year in which a loss of the particular taxation year may be deducted under subsection

regarded as relating to a matter specified in the waiver, or

- (d) in the case of a reassessment, additional assessment or assessment made as a result of a corporation's submitting an amended return under section 36.2(2), the corporation establishes that the amount cannot reasonably be regarded as relating to the error that was corrected by the amended return.

(25) The following is added after section 43:

Federal-based
s72.1
assessments

43.1(1) When the Provincial Treasurer makes an assessment, reassessment or additional assessment involving the application of section 72.1 that is based on a federal action, the Provincial Treasurer shall designate the assessment, reassessment or additional assessment as being based on the federal action.

(2) All assessments, reassessments or additional assessments involving the application of section 72.1 made by the Provincial Treasurer from April 1, 1996 to the coming into

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.*

(25) Provincial assessments based on a federal action have to be specially designated.

force of this section are deemed to have been designated by the Provincial Treasurer as being based on a federal action.

(26) Section 47(4)(a.1) is repealed and the following is substituted:

(a.1) the corporation's balance-due day for the year,

(27) Section 48 is amended

(a) in subsection (4) by striking out "On receipt" and substituting "Subject to subsection (4.1), on receipt";

(b) by adding the following after subsection (4):

(4.1) When the Provincial Treasurer is served with a notice of objection to

(a) a determination under section 41(1.11), or

(26) Section 47(4) presently reads:

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

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

(a.1) the day on or before which the corporation is required to make a payment under section 38(1)(b), (1.1), (1.2) or (8),

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

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

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

exceeds

(ii) the amount repaid,

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

(27) Section 48(4) presently reads:

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

(a) if the corporation indicates in the notice of objection that it wishes to appeal immediately to the court and that it waives reconsideration of the assessment and the Provincial Treasurer consents, file a copy of the notice of objection with the clerk of the court of a

- (b) an assessment, reassessment or additional assessment involving the application of section 72.1

that the Provincial Treasurer has designated as being based on a federal action, the Provincial Treasurer's duties under subsection (4) do not arise until after all rights of appeal in respect of the federal action have been exhausted or extinguished.

(28) Subsection (27) applies in respect of notices of objection served on the Provincial Treasurer after subsection (27) comes into force.

(29) Section 50(1) is amended by striking out "or" at the end of clause (a) and by repealing clause (b) and substituting the following:

- (b) in the case of a notice of objection to

- (i) a determination under section 41(1.11), or

- (ii) an assessment, reassessment or additional assessment involving the application of section 72.1

that the Provincial Treasurer has designated as being based on a federal action, 90 days has elapsed after all rights of appeal in respect of the federal action have been exhausted or extinguished and the Provincial Treasurer has not notified the corporation that he has vacated or confirmed the determination, assessment, reassessment or additional assessment or has reassessed, or

- (c) in the case of any other notice of objection, 90 days has 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 has reassessed,

(30) Section 50(1)(b) as enacted by subsection (29) applies in respect of notices of objection served on the Provincial Treasurer after subsection (29) comes into force.

(31) Section 72.3(1) is amended

- (a) by renumbering it as section 72.3;**

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

- (b) the Provincial Treasurer may not reassess, make an additional assessment of or assess tax, interest or penalties, notify the corporation that no tax is

judicial district in which the corporation has a permanent establishment, or

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

and he shall notify the corporation of his action in writing.

(28) Application of subsection (27).

(29) 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.

(30) Application of subsection (29).

(31) Section 72.3(1)(b) presently reads:

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

(b) the normal assessment period defined in section 43(0.1) and the time in section 43(1.2) within which the Provincial Treasurer must reassess, make an additional assessment of or assess tax, interest or penalties, notify the corporation that no tax is payable

payable or make a determination in respect of a taxation year after the later of

- (i) the day that is 6 months after the date referred to in clause (a)(i) or (ii) that applies to the corporation, and
- (ii) the end of the normal reassessment period as defined in section 43(0.1).

(32) Sections 92(1.1) and 105(2) are amended

- (a) by adding “, (1.11)” after “(1.11)”;**
- (b) by adding “43.1,” after “43.”.**

(33) Section 121(2) is amended by striking out “41(1.11) and (1.12),” and substituting “41(1.11), (1.111) and (1.12), 43.1,”.

(34) Subsection (16)(a) and (c) come into force on Proclamation.

Alberta Corporate Tax Amendment Act, 1996

Amends SA
1996 c4

2(1) The Alberta Corporate Tax Amendment Act, 1996 is amended by this section.

(2) Section 16 is amended by repealing section 36.1(3) and substituting the following:

(3) A return of income of a corporation for a taxation year that is sent by way of electronic filing by a person referred to in subsection (2) is deemed to have been filed on the day that the Provincial Treasurer acknowledges that

- (a) the return has been received, and
- (b) the return is in an acceptable format and is in the prescribed form.

or make a determination in respect of a taxation year are extended by

- (i) 90 days if the corporation does not appeal in accordance with section 72.2(2), or*
- (ii) the number of days in the period between the date on which the corporation is served with the notice under section 72.2(1) and the date on which the Appeal Committee makes an order under section 72.5 if the corporation appeals in accordance with section 72.2(2).*

(32) Sections 92(1.1) and 105(2) presently read:

92(1.1) Subject to subsection (2), sections 1(2)(g) and (i), 1(3) and (4), 37.1, 39(6), 41(1), (1.11) and (1.12), 42, 43, 45, 46, 47(2) to (4) and (4.2) to (5), 48 to 72, Part 8 Division 4.1 and 74 to 84 apply for the purposes of this Part.

105(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), 37.1, 39(6), 41(1), (1.11) and (1.12), 42, 43, 45, 46, 47(2) to (4) and (4.2) to (5), 48 to 72, Part 8 Division 4.1 and 73.1 to 84 apply to this Part.

(33) Section 121(2) presently reads:

(2) Subject to subsection (3), sections 1(4), 37.1, 41(1.11) and (1.12), 48, 48.1, 48.2, 50 to 54, 55(1), (3) and (4), 55.1 to 70, Part 8 Division 4.1, 74 to 79 and 81 to 84 apply to this Part.

(34) Coming into force.

Alberta Corporate Tax Amendment Act, 1996

2(1) Amends chapter 4 of the Statutes of Alberta, 1996.

(2) Amends section 36.1(3), which is not yet proclaimed in force. Section 36.1(3) presently reads:

(3) For the purposes of section 36, a return of income of a corporation for a taxation year that is filed by way of electronic filing by a person referred to in subsection (2) is deemed

(a) to be a return of income filed with the Provincial Treasurer in the prescribed form, and

(b) to have been filed on the day that data transmission to the Provincial Treasurer is completed.

Alberta Income Tax Act

Amends RSA
1980 cA-31

3(1) The *Alberta Income Tax Act* is amended by this section.

(2) Section 1(1) is amended

(a) by repealing clauses (a.1), (b), (b.1), (d), (g), (h), (i), (l), (q) and (r);

(b) by repealing clauses (y) and (z) and substituting the following:

(y) “taxation year” means a taxation year as defined in section 249 of the federal Act and, in the case of an estate or trust arising on death, means a taxation year as defined in subsection 104(23) of the federal Act.

Alberta Income Tax Act

3(1) Amends chapter A-31 of the Revised Statutes of Alberta 1980.

(2) Section 1 presently reads in part:

1(1) In this Act,

- (a.1) “amount” means money, rights or things expressed in terms of the amount of money or the value in terms of money of the right or thing;*
- (b) “assessment” includes a reassessment;*
- (b.1) “business” includes a profession, calling, trade, manufacture or undertaking of any kind whatsoever and includes an adventure or concern in the nature of trade but does not include an office or employment;*
- (d) “corporation” includes an incorporated company and a “corporation incorporated in Canada” includes a corporation incorporated in any part of Canada before or after it became part of Canada;*
- (g) “employed” means performing the duties of an office or employment;*
- (h) “employee” includes officer;*
- (i) “employer”, in relation to an officer, means the person from whom the officer receives his remuneration;*
- (l) “fiscal period” means a fiscal period determined in accordance with and for the purposes of the federal Act;*
- (q) “permanent establishment” means a permanent establishment as defined in the federal regulations;*
- (r) “person” or any word or expression descriptive of a person, includes any body corporate and politic, and the heirs, executors, administrators or other legal representatives of that person, according to the law of that part of Canada to which the context extends;*
- (y) “taxation year” means*
 - (i) in the case of a corporation, a fiscal period,*

(3) Section 3.02(3)(c) is repealed and the following is substituted:

- (c) 45.5% in respect of the 1993, 1994, 1995, 1996 and 1997 taxation years;
- (d) 44% in respect of the 1998 and subsequent taxation years.

(4) Section 17 is amended by striking out “Notwithstanding that more than 3 years has elapsed since the date of mailing a notice of an original assessment of tax, interest or penalties payable by a taxpayer for a taxation year, or a notification that no tax is payable by the taxpayer for the year,” **and substituting** “Notwithstanding that the normal reassessment period as defined in subsection 152(3.1) of the federal Act for a taxpayer in respect of a taxation year has elapsed,”.

(5) Subsection (4) applies after April 27, 1989, other than in respect of a taxation year of a taxpayer for which a notice of an original assessment under the federal Act in respect of the taxpayer for the year, or a notification that no tax is payable by the taxpayer for the year, was mailed on or before April 27, 1986.

(6) The following is added after section 29:

(ii) *in the case of an individual, a calendar year, and*

(iii) *in the case of an estate or trust arising on death, notwithstanding subclause (ii), a taxation year as defined in paragraph 104(23)(a) of the federal Act,*

and when a taxation year is referred to by reference to a calendar year, the reference is to the taxation year or years coinciding with, or ending in, that year;

(z) *“taxpayer” includes any person whether or not liable to pay tax.*

(3) Section 3.02(3) presently reads:

(3) For the purposes of this section, the percentage of the tax payable under the federal Act to be used for computing the basic tax payable under this section is

(a) 46.5% in respect of the 1987, 1988, 1989, 1990 and 1991 taxation years;

(b) 46% in respect of the 1992 taxation year;

(c) 45.5% in respect of the 1993 and subsequent taxation years.

(4) Section 17 presently reads:

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

(5) Application of subsection (4).

(6) Incorporates federal provisions dealing with the Minister and the Tax Court of Canada extending time for taxpayers to file a notice of objection.

General

Extension of
time

29.1 Sections 166.1 and 166.2 of the federal Act apply for the purposes of this Act.

(7) Subsection (6) applies to applications filed after January 16, 1992.

(8) Section 36 is amended by adding “221.1,” after “220.”.

(9) Subsection (8) applies to amendments and enactments assented to or promulgated after 1989 and is deemed to have come into force on January 1, 1990.

(10) The following is added after section 37:

Remission of
tax

37.1(1) Notwithstanding section 26(1), (1.1) and (1.2) of the *Financial Administration Act*, if the Provincial Treasurer considers it in the public interest to do so, or considers it advisable to do so in a case where injustice or great hardship to an individual has resulted or is likely to result, he may order the remission of any tax, interest, penalty, cost or other amount not exceeding \$25 000 paid or payable to the Crown and imposed or authorized under this Act.

(2) Section 26(2), (2.2) and (3) of the *Financial Administration Act* apply to the Provincial Treasurer’s power to make a remission under subsection (1).

(11) Section 44(2)(b) is amended

(a) by adding “(8.2),” after “227(8),”;

(b) by striking out “or (8.4)” and substituting “, (8.4), (9), (9.2), (9.4) or (9.5)”.

(7) Application of subsection (6).

(8) Section 36 presently reads:

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

(9) Application of subsection (8).

(10) Provincial Treasurer may order the remission of taxes in certain circumstances.

(11) Section 44(2) presently reads:

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

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

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

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