

1999 BILL 28

Third Session, 24th Legislature, 48 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 28

**ALBERTA CORPORATE TAX
AMENDMENT ACT, 1999**

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 28

1999

ALBERTA CORPORATE TAX AMENDMENT ACT, 1999

(Assented to _____, 1999)

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 Section 1 is amended

(a) by repealing subsection (2)(d.1) and substituting the following:

(d.1) "federal assessment action" means any of the following actions taken by the Minister of National Revenue under the federal Act:

- (i) an assessment, reassessment or additional assessment of tax, interest or penalties;
- (ii) a determination or redetermination of a loss or an amount;
- (iii) a confirmation of an assessment, reassessment or additional assessment of tax, interest or penalties or of a determination or redetermination of a loss or an amount;

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

(6) For the purposes of this Act and the provisions of the federal Act and regulations made under that Act that are by this Act made applicable for the purposes of this Act, if a corporation has a taxation year of more than 365 days, the taxation year of the corporation is 365 days.

Explanatory Notes

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

2 Section 1(2)(d.1) presently reads:

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

(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;

3(1) Section 35(5) is amended by adding the following after clause (c):

- (d) the corporation is, for the purposes of this Act, deemed to have amalgamated at the beginning of the first taxable taxation year with another corporation which immediately before that time is deemed to have had no shares, paid-up capital, assets, liabilities or tax balances, so that the rules of section 87 of the federal Act, as made applicable by this Act, will apply to the corporation as if it were a “new corporation” within the meaning of section 87 of the federal Act, except that the taxation year of the corporation referred to in paragraph 87(2)(a) of the federal Act is the same as the taxation year for federal purposes that includes the particular time.

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

4 Section 41(1.111) is amended by striking out “under subsection (1.11) that is based on a federal action” and substituting “that is based on a federal assessment action”.

5 Section 43.1 is amended

- (a) in subsection (1) by striking out “involving the application of section 72.1 that is based on a federal action” and substituting “that is based on a federal assessment action”;**
- (b) in subsection (2) by striking out “federal action” and substituting “federal assessment action that was 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”.**

3 Section 35(5) presently reads:

(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.*

4 Section 41(1.111) presently reads:

(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.

5 Section 43.1 presently reads:

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

6 Section 48 is amended

(a) in subsection (1.1)(a)

(i) by adding “or (1.11)” after “41(1.1)”;

(ii) by striking out “44, 47(4.4) or 72.1(8)” and substituting “44 or 47(4.4)”;

(b) by adding the following after subsection (1.1):

(1.105) Notwithstanding subsection (1), where the Provincial Treasurer confirms a determination, assessment, reassessment or additional assessment in respect of a corporation under section 72.5(4), the corporation may object to the determination or assessment within 90 days after the day of mailing of the notice of confirmation only to the extent that the reasons for the objection may reasonably be regarded as relating to a matter that gave rise to the determination or assessment.

(c) in subsection (1.13) by striking out “(1) and (1.1)” and substituting “(1), (1.1) and (1.105)”;

(d) by repealing subsection (4.1) and substituting the following:

(4.1) When the Provincial Treasurer is served with a notice of objection to a determination, assessment, reassessment or additional assessment that the Provincial Treasurer has designated as being based on a federal assessment action, the Provincial Treasurer’s duties under subsection (4) do not arise until all rights of appeal in respect of the federal assessment action have been exhausted or extinguished.

6 Section 48 presently reads in part:

(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), (3.3), (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,*
- (b) under subsection (4) where the underlying objection relates to an assessment or a determination made under any of the provisions or circumstances referred to in clause (a), or*
- (c) under subsection 12(2.2) of the federal Act as it is made applicable for the purposes of this Act,*

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

(1.13) Notwithstanding subsections (1) and (1.1), if under subsection (4) a particular assessment was made for a taxation year pursuant to a notice of objection served by a corporation that was a large corporation in the year, within the meaning assigned by subsection 225.1(8) of the federal Act, except where the objection was made to an earlier assessment made under any of the provisions or circumstances referred to in subsection (1.1)(a), the corporation may object to the particular assessment in respect of an issue

- (a) only if the corporation has complied with subsection (1.11) in the notice with respect to that issue, and*
- (b) only with respect to the relief sought in respect of that issue as specified by the corporation in the notice.*

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

- (a) a determination under section 41(1.11), or*
- (b) an assessment, reassessment or additional assessment involving the application of section 72.1*

7 Section 50 is amended

(a) in subsection (1)

(i) by striking out “assessment under section 48(1)”
and substituting “assessment in accordance with
section 48”;

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

(b) in the case of a notice of objection to a
determination, assessment, reassessment or
additional assessment that the Provincial
Treasurer has designated as being based on a
federal assessment action, 90 days has elapsed
after all rights of appeal in respect of the federal
assessment 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

(b) in subsection (1.1)(a)

(i) by adding “or (1.11)” **after** “41(1.1)”;

(ii) by striking out “44, 47(4.4) or 72.1(8)” **and
substituting** “44 or 47(4.4)”.

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.

7 Section 50 presently reads in part:

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,*
- (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,*

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.

(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), (3.3), (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,*
- (b) under section 48(4) where the underlying objection relates to an assessment or a determination made under any of the provisions or circumstances referred to in clause (a), or*

8 Section 72.1 is amended

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

- (ii) the corporation's capital, adjusted taxable capital, basic capital amount or taxable capital employed in Canada referred to in Part 10,

(b) in subsection (6) by adding "under section 72.2(2)" after "mailing of the notice".

(c) under subsection 12(2.2) of the federal Act as it is made applicable for the purposes of this Act,

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.

8 Section 72.1 presently reads in part:

72.1(1) In this section and in section 41(1.11),

(b) “tax consequences” to a corporation means the amount of

(i) the corporation’s income, taxable income, taxable income earned in Canada or amount taxable in Alberta,

(ii) the corporation’s amount taxable, the portion of the corporation’s amount taxable that is used by the corporation in jurisdictions outside Alberta, the corporation’s taxable paid-up capital, taxable paid-up capital employed in Canada or specified taxable paid-up capital, all as referred to in Part 10,

(iii) the corporation’s amount of premiums receivable referred to in Part 9,

(iv) tax, refundable tax credit or other amount payable by or refundable to the corporation under this Act, or

(v) any other amount that is relevant for the purposes of computing any amount referred to in this clause;

(6) Where with respect to a transaction

(a) a notice of assessment, reassessment or additional assessment involving the application of subsection (2) with respect to the transaction has been sent to a corporation, or

(b) a notice of determination pursuant to section 41(1.11) has been sent to a corporation with respect to the transaction,

any corporation, other than a corporation referred to in clause (a) or (b), is entitled, within 180 days after the day of mailing of the notice, to request in writing that the Provincial Treasurer make an assessment, reassessment or additional assessment applying subsection (2) or make a determination applying section 41(1.11) with respect to that transaction.

9 Sections 72.2 and 72.3 are repealed and the following is substituted:

Notice re
avoidance
transaction

72.2(1) In this section, “assessment” means a determination under section 41(1.11) or any assessment, reassessment or additional assessment under this Act.

(2) If the Provincial Treasurer makes an assessment in respect of a corporation and the Provincial Treasurer is of the opinion that the matter that gave rise to the assessment includes or involves an avoidance transaction under section 72.1, the Provincial Treasurer shall send a notice to the corporation stating that section 72.1 is a basis for the assessment.

(3) A notice stating that section 72.1 is a basis for assessment may be

(a) combined with the notice of assessment, or

(b) sent to the corporation after the notice of assessment is issued.

(4) A corporation may appeal to the Appeal Committee established under section 72.4 not more than 90 days after the day of mailing of the notice under subsection (2).

9 Sections 72.2 and 72.3 presently read:

72.2(1) If the Provincial Treasurer is of the opinion that a transaction of a corporation may be an avoidance transaction under section 72.1, the Provincial Treasurer shall notify the corporation in writing of an intention to make a determination under section 41(1.11) or an assessment, reassessment or additional assessment under section 72.1 in respect of a taxation year before making the determination, assessment, reassessment or additional assessment.

(2) A corporation may appeal to the Appeal Committee established under section 72.4 not more than 90 days after a notice under subsection (1) is served on the corporation.

(3) If no appeal is made in accordance with subsection (2) or the Appeal Committee makes an order under section 72.5(1)(a) or (b), the Provincial Treasurer may make the determination or the assessment, reassessment or additional assessment in respect of the transaction referred to in the notice under subsection (1).

(4) If an appeal is allowed under section 72.5(1)(c), the Provincial Treasurer shall not make a determination, assessment, reassessment or additional assessment in respect of the transaction referred to in the notice under subsection (1).

72.3 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)(1) 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

(i) 90 days after the notice under section 72.2(1) is served on the corporation, if the corporation does not appeal in accordance with section 72.2(2), or

(ii) on 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),

and

(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 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

Order of
Appeal
Committee

10 Section 72.5 is amended

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

72.5(1) The Appeal Committee may make an order

- (a) dismissing the appeal in whole or in part, or
- (b) allowing the appeal in whole or in part.

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

(4) When the Appeal Committee makes an order, the Provincial Treasurer shall confirm, vary or cancel the determination, assessment, reassessment or additional assessment in accordance with the order.

(5) No determination, assessment, reassessment or additional assessment made by the Provincial Treasurer under subsection (4) is invalid by reason only of not having been made within any time period for making a determination, assessment, reassessment or additional assessment under this Act.

11 Section 93 is amended

(a) in subsection (1)

(i) by repealing clauses (a) and (a.1) and substituting the following:

(a) “adjusted taxable capital” means the adjusted taxable capital of a financial institution that is a resident corporation calculated in accordance with section 95;

(a.1) “Alberta Treasury Branches” means the corporation established as Alberta Treasury Branches by the *Alberta Treasury Branches Act*;

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

(e.1) “financial institution” means

- (i) Alberta Treasury Branches,
- (ii) a bank,
- (iii) a credit union, or

(ii) *the end of the normal reassessment period as defined in section 43(0.1).*

10 Section 72.5(1) presently reads:

72.5(1) The Appeal Committee may make an order

- (a) dismissing the appeal,*
- (b) limiting the transactions in respect of which the determination, assessment, reassessment or additional assessment referred to in the notice under section 72.2 may be made, or*
- (c) allowing the appeal.*

11 Section 93(1) presently reads in part:

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(1)(b) is of the amount taxable of the corporation;*
- (a.1) "amount taxable" means*
 - (i) in the case of a resident corporation, the taxable paid-up capital of the corporation, or*

(iv) a loan and trust corporation;

(iii) by repealing clause (f) and substituting the following:

(f) “loan and trust corporation” means

(i) a loan corporation,

(ii) a trust corporation, or

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

(f.1) “loan corporation” means a body corporate incorporated or operated for the purpose of carrying on a deposit-taking business, but does not include Alberta Treasury Branches, a bank, an insurer, a credit union or a trust corporation;

(f.2) “long-term debt” has the meaning assigned to it by subsection 181(1) of the federal Act;

(iv) by repealing clauses (h) and (h.1) and substituting the following:

(h) “reserves”, in respect of a financial institution for a taxation year, means the amount at the end of the year of all of the institution’s reserves, provisions and allowances (other than allowances in respect of depreciation or depletion) and, for greater certainty, includes any provision in respect of deferred taxes;

(v) by repealing clauses (i.01) to (k) and substituting the following:

(j) “taxable capital employed in Canada” means the taxable capital employed in Canada of a financial institution that is a non-resident corporation calculated in accordance with section 96;

(vi) by adding the following after clause (l):

(m) “trust corporation” means a body corporate incorporated or operated for the purposes of

(i) offering its services to the public as executor, administrator, trustee, bailee, agent, custodian, receiver, liquidator,

- (ii) *in the case of a non-resident corporation, the taxable paid-up capital employed in Canada of the corporation,*
- at the end of the taxation year;*
- (f) *“loan and trust corporation” means*
- (i) *a body corporate, in this clause referred to as a “loan corporation”, incorporated or operated for the purpose of carrying on a deposit-taking business but does not include a bank, a treasury branch, an insurer, a trust corporation or a credit union,*
 - (ii) *a body corporate, in this clause referred to as a “trust corporation”, incorporated or operated for the purposes of*
 - (A) *offering its services to the public as executor, administrator, trustee, bailee, agent, receiver, liquidator, assignee, guardian or trustee of a minor’s estate or of the estate of a mentally incompetent person, and*
 - (B) *carrying on a deposit-taking business,*

but does not include a bank, a treasury branch, an insurer, a corporation referred to in subclause (i) or a credit union, or
 - (iii) *a body corporate incorporated or operated for the purposes of offering the services of a loan corporation and a trust corporation;*
- (h) *“other surplus” includes*
- (i) *any amount by which the value of an asset of a corporation, as carried on its account books or on its balance sheet, is in excess of the cost of the asset, or*
 - (ii) *any amount by which the value of an asset of a corporation has been written down and deducted from its income or retained earnings, where that amount*
 - (A) *is not deductible under Part 2, or*
 - (B) *is deductible under Part 2 by virtue of the application of paragraph 20(1)(n) or subparagraph 40(1)(a)(iii) or 44(1)(e)(iii) of the federal Act,*

but, unless otherwise prescribed to be included, does not include any amount by which the value of an asset of a corporation has been written down and deducted from its income or retained earnings where that amount is deductible for the purposes of Part 2

sequestrator, assignee or guardian or trustee of a minor's estate or of the estate of a mentally incompetent person, and

(ii) carrying on a deposit-taking business,

but does not include Alberta Treasury Branches, a bank, an insurer, a credit union or a loan corporation.

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

(4) For the purposes of determining the carrying value of a financial institution's assets or any other amounts under this Part in respect of a financial institution's capital, investment allowance, taxable capital, adjusted taxable capital or taxable capital employed in Canada for a taxation year or in respect of a partnership in which a financial institution has an interest,

(a) the equity and consolidation methods of accounting shall not be used;

(b) subject to clause (a) and except as otherwise provided in this Part,

(i) the amounts reflected in the balance sheet of a financial institution, other than a bank, presented to the owners or shareholders of the institution or the members of the partnership, as the case may be, or, where such a balance sheet was not prepared in accordance with generally accepted accounting principles or no such balance sheet was prepared, the amounts that would be reflected if such a balance sheet had been prepared in accordance with generally accepted accounting principles shall be used, and

(ii) in the case of a bank, the amounts reflected in the bank's balance sheet accepted by the Superintendent of Financial Institutions shall be used.

(5) Unless a contrary intention is evident, no provision of this Part shall be read or construed as requiring the inclusion or permitting the deduction, in computing the amount of a financial institution's capital, investment allowance, taxable capital, adjusted taxable capital or taxable capital employed in Canada for a taxation year, of any amount to the extent that the amount has been included or deducted, as the case may be, in computing the

under any provision of the federal Act other than those referred to in paragraph (B);

- (h.1) “qualified corporation” means, with respect to a taxation year, a corporation that is liable to pay tax under this Part for the year, and*
 - (i) that has its head office located in Alberta at the end of the year and that has taxable paid-up capital of not more than \$200 000 000, or*
 - (ii) that at the end of the year is a subsidiary wholly-owned corporation of a parent corporation that, with respect to its taxation year that ends in the same calendar year as the taxation year of the subsidiary wholly-owned corporation, is liable to pay tax under this Part;*
- (i.01) “special qualified corporation” means, with respect to a taxation year, a corporation that is liable to pay tax under this Part for the year and that is described in both clause (h.1)(i) and (ii);*
- (i.1) “specified capital tax otherwise payable” means the tax that would be payable under section 97 if the references to “amount taxable” in section 97 were read as references to “specified taxable paid-up capital”;*
- (i.2) “specified taxable paid-up capital” means the specified taxable paid-up capital of a qualified corporation or a special qualified corporation computed in accordance with section 96.1;*
- (j) “taxable paid-up capital” means the taxable paid-up capital of a resident corporation at the end of a taxation year computed in accordance with section 95;*
- (k) “taxable paid-up capital employed in Canada” means the taxable paid-up capital employed in Canada by a non-resident corporation at the end of a taxation year, computed in accordance with section 96;*

first-mentioned amount under, in accordance with or by reason of any other provision of this Part.

(6) For the purposes of sections 95(2) and 97(5), a Canadian-controlled private corporation and another corporation to which it would, but for this subsection, be related at any time are deemed not to be related to each other at that time where the corporations are not associated with each other at that time.

12 Section 94(1) is repealed and the following is substituted:

Liability for tax

94(1) Every financial institution that has a permanent establishment in Alberta at any time in a taxation year is liable to pay a tax under this Part for that taxation year computed

- (a) in the case of a resident corporation, on its adjusted taxable capital for the taxation year, and
- (b) in the case of a non-resident corporation, on its taxable capital employed in Canada for the taxation year.

13 Section 95 is repealed and the following is substituted:

Calculation of
adjusted
taxable capital

95(1) The adjusted taxable capital of a financial institution that is a resident corporation for a taxation year is the amount calculated in accordance with the following formula:

$$ATC = (TC + CTP) \times SP$$

where

ATC is the institution's adjusted taxable capital for the taxation year;

TC is the institution's taxable capital for the taxation year calculated in accordance with subsection (2);

CTP is the Canadian tangible property of the institution, which is the total of all amounts determined under paragraphs 181.3(1)(a) and (b) of the federal Act in respect of the institution for the taxation year;

12 Section 94(1) presently reads:

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

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

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

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

13 Section 95 presently reads:

95(1) The taxable paid-up capital of a resident corporation that is a bank, loan and trust corporation or a credit union for a particular taxation year is its taxable paid-up capital computed at the end of the taxation year on an unconsolidated basis, including the amount by which the aggregate of

(a) its capital stock,

(b) its contributed surplus,

(c) its retained earnings, capital and other surpluses,

(d) its deferred tax credit, and

(e) all of its reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a charge against income under Part 2

exceeds the aggregate of

(f) its deficit,

(g) its deferred tax debit, and

SP is the fraction, expressed as a percentage, in which the numerator is 100% and the denominator is the percentage of the institution's taxable capital that is not deemed under the prescribed rules to be used by it in the taxation year in a jurisdiction other than Canada.

(2) The taxable capital of a financial institution that is a resident corporation for a taxation year is the amount by which its capital for the taxation year calculated in accordance with subsection (3) exceeds its investment allowance for the taxation year calculated in accordance with subsection (5) in respect of all investments, each of which is an investment in a share of the capital stock or long-term debt of a related financial institution that has a permanent establishment in Alberta and is not exempt from tax under this Part.

(3) The capital of a financial institution that is a resident corporation for a taxation year is calculated in accordance with the following formula:

$$C = A - B$$

where

C is the capital of the institution for the taxation year;

A is the total of the following amounts determined at the end of the taxation year:

- (a) the amount of the institution's long-term debt;
- (b) the amount of the institution's capital stock or, in the case of an institution incorporated without share capital, the amount of its members' contributions;
- (c) the amount of the institution's retained earnings;
- (d) the amount of the institution's contributed surplus and the amount of any other surpluses;
- (e) the amount of the institution's reserves for the year, except to the extent that they were

(h) amounts deducted for income tax purposes in excess of the amounts recorded in the books, including any amount by which the net book value of depreciable assets, excluding appraisal increases, exceeds the undepreciated capital cost for income tax purposes.

(2) In computing its taxable paid-up capital, a resident corporation shall use the cost method to account for its investments in other corporations.

deducted in computing its income under Part 2 for the taxation year;

B is the total of the following amounts determined at the end of the taxation year:

- (a) the amount of the institution's deferred tax debit balance;
- (b) the amount of any deficit deducted in computing the institution's shareholders' equity;
- (c) any amount deducted under subsection 130.1(1) or 137(2) of the federal Act, as made applicable by sections 29 and 32 of this Act, in computing the institution's income under Part 2 for the year to the extent that the amount can reasonably be regarded as being included in the amount determined under A of this subsection in respect of the institution for the year.

(4) The capital of a financial institution that is a resident corporation for a taxation year determined under subsection (3) may not be less than zero.

(5) The investment allowance of a financial institution that is a resident corporation for a taxation year in respect of an investment in a share of the capital stock or long-term debt of a related financial institution described in subsection (2) is the amount determined in accordance with the following formula:

$$IA = CV \times \frac{D}{E}$$

where

IA is the investment allowance of the financial institution for the taxation year in respect of the investment;

CV is the carrying value of the investment to the financial institution at the end of the taxation year;

D is the percentage of the related financial institution's taxable capital that is not deemed under the prescribed rules to be used by it in its last taxation year ending in the financial

institution's taxation year in a jurisdiction other than Alberta;

- E is the percentage of the financial institution's taxable capital that is not deemed under the prescribed rules to be used by it in the taxation year in a jurisdiction other than Alberta.

14 Section 96 is amended

- (a) in subsection (1) by striking out the portion of the subsection preceding clause (a) and substituting the following:**

Calculation of
taxable capital
employed in
Canada

96(1) The taxable capital employed in Canada of a financial institution that is a non-resident corporation for a taxation year is the greater of

- (b) in subsection (4)**

(i) by striking out "paid-up";

(ii) by adding "financial institution that is a" before "non-resident corporation";

- (c) by repealing subsection (5).**

15 Section 96.1 is repealed.

16 Section 97 is repealed and the following is substituted:

Tax payable
by resident
financial
institution

97(1) In this section, "threshold amount" in respect of a taxation year means \$400 000 000 or, if a higher amount is prescribed for the taxation year, the higher amount.

14 Section 96(1), (4) and (5) presently read:

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

(a) the product of 12.5 and its taxable income earned in Canada in the taxation year determined for the purposes of the federal Act, and

(b) subject to subsection (2), the amount by which the total assets of the corporation in Canada at the end of the taxation year exceed the amount of the indebtedness of the corporation at the end of that year relating to its permanent establishments in Canada.

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

(5) In computing its taxable paid-up capital employed in Canada, a non-resident corporation shall use the cost method to account for its investments in other corporations.

15 Section 96.1 presently reads:

96.1 The specified taxable paid-up capital for a taxation year of a special qualified corporation or a qualified corporation that is described in section 93(1)(h.1)(ii) is the retained earnings of the corporation at the end of the year.

16 Section 97 presently reads:

97(1) The tax payable under this Part by a corporation is 2% of the difference between

(a) its amount taxable, and

(2) The tax payable under this Part by a financial institution that is a resident corporation for a taxation year is calculated in accordance with the following formula:

$$T = A \times (B+C)$$

where

T is the tax payable;

A is the percentage of the institution's adjusted taxable capital that is not deemed under the prescribed rules to be used by it in the taxation year in a jurisdiction other than Alberta;

B is 0.7% of the lesser of

(a) the institution's adjusted taxable capital for the taxation year, and

(b) the institution's basic capital amount determined under subsection (3) or (5) for the taxation year;

C is 1% of the amount by which the institution's adjusted taxable capital for the taxation year exceeds its basic capital amount determined under subsection (3) or (5) for the taxation year.

(3) The basic capital amount of a financial institution that is a resident corporation for a taxation year is the threshold amount for the taxation year if the financial institution is not related in the taxation year to another financial institution that has a permanent establishment in Canada.

(4) The basic capital amount of a financial institution that is a resident corporation for a taxation year is the amount calculated under subsection (5) if the financial institution is related in the taxation year to another financial institution that

(a) has a permanent establishment in Canada, and

(b) is not exempt by virtue of section 94(2) from tax under this Part.

(5) The basic capital amount for a financial institution that is a resident corporation for a taxation year for the purposes of subsection (4) is the amount determined by multiplying the threshold amount for the taxation year by the ratio of

- (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.*

(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

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

- (a) the institution's taxable capital employed in Canada for the taxation year for the purposes of Part I.3 of the federal Act, to
- (b) the total of the taxable capital employed in Canada for the purposes of Part I.3 of the federal Act of
 - (i) the financial institution for the taxation year, and
 - (ii) each related financial institution referred to in subsection (4) for its last taxation year ending before the end of the institution's taxation year.

(6) Notwithstanding subsection (2), the tax payable by a financial institution that is a resident corporation whose taxation year is less than 365 days is the product obtained by multiplying the amount calculated under subsection (2) by the ratio of the number of days in the taxation year to 365.

(7) Notwithstanding anything in this section, the maximum tax payable by a credit union under this Part for a taxation year is \$100.

(8) Subsection (7) is repealed on Proclamation and the repeal is effective in respect of the taxation years specified in the Proclamation.

Tax payable
by non-
resident
financial
institution

97.1(1) The tax payable under this Part for a taxation year by a financial institution that is a non-resident corporation is the amount calculated in accordance with the following formula:

$$T = 2\% \times (TC - PTC)$$

where

T is the tax payable;

TC is the institution's taxable capital employed in Canada;

PTC is that portion of the taxable capital employed in Canada that is used by the institution in jurisdictions outside Alberta as determined in accordance with the prescribed rules.

(2) Notwithstanding subsection (1), the tax payable by a financial institution that is a non-resident corporation

- (a) whose taxation year is less than 365 days, and

(b) whose taxable 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.

17 Section 99.1 is repealed.

17 Section 99.1 presently reads:

99.1 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 payable under section 97 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

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 payable under section 97 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;*

18(1) Subject to subsection (2), sections 8(a) and 11 to 17 come into force on November 1, 1999 and apply in respect of taxation years commencing on or after November 1, 1999.

(2) Section 93(1)(e.1)(i) as enacted by section 11 of this Act comes into force on Proclamation and applies in respect of the taxation years specified in the Proclamation.

- (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 payable under section 97 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 tax payable under section 97 exceeds the corporation's specified capital tax otherwise payable.*

18 Coming into force.