

2000 BILL 22

Fourth Session, 24th Legislature, 49 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 22

**ALBERTA CORPORATE TAX
AMENDMENT ACT, 2000**

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 22

2000

ALBERTA CORPORATE TAX AMENDMENT ACT, 2000

(Assented to _____, 2000)

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)(g.3);

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

(2.1) For the purposes of this Act, a reference to the Minister of National Revenue, the Minister or the Deputy Minister of National Revenue is to be read as including a reference to the Commissioner of the Canada Customs and Revenue Agency established under the *Canada Customs and Revenue Agency Act* (Canada).

3 Section 2(6) is amended by striking out “An” and substituting “Subject to sections 14.1, 14.2, 14.3, 16.1 and 16.2, an”.

Explanatory Notes

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

2 Section 1(2) presently reads in part:

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

(g.3) "royalty tax credit gas supplement" means a tax credit to which a corporation is entitled under section 26.2;

3 Section 2(6) presently reads:

(6) An election or designation by a corporation that may be made under the federal Act may be filed with the Provincial Treasurer and if so filed the rules respecting that election or designation in the federal Act apply but, in the event that the election or designation is not filed with the Provincial Treasurer, the Provincial Treasurer shall accept an election or designation made under the federal Act and the provisions of the federal Act imposing penalties for late filing of elections or designations are not applicable for the purposes of this Act.

4 Section 6 is amended by striking out “The” and substituting “Subject to sections 6.1 and 6.2, the”.

5 The following is added after section 6:

Cost amount
of property

6.1 Where the cost amount of property owned by a corporation is relevant in the computation of income for the purposes of this Act, the cost amount, for the purposes of this Act, of any property owned by the corporation at the time it establishes a permanent establishment in Alberta is deemed to be the cost amount of such property, at that time, for purposes of the computation of income under the federal Act.

Rules for
depreciable
property

6.2 Where the property referred to in section 6.1 is depreciable property and the capital cost of such property to the corporation immediately prior to the time the corporation establishes a permanent establishment in Alberta exceeds the cost amount of such property as determined under section 6.1, for the purposes of applying those sections of this Act that make applicable for the purposes of this Act sections 13 and 20 of the federal Act and any federal regulations made for the purposes of paragraph 20(1)(a) of the federal Act,

- (a) the capital cost of the property to the corporation is deemed to be the capital cost to the corporation of the property for the purposes of the federal Act immediately prior to the time it established a permanent establishment in Alberta, and
- (b) the excess is deemed to have been deducted by the corporation under the sections of this Act that make applicable paragraph 20(1)(a) of the federal Act.

6 The following is added after section 8.3:

Federal
transfer pricing
rules

8.4(1) Section 247, except subsections (3) and (11), of the federal Act applies in computing income for the purposes of this Act.

(2) This section applies to taxation years and fiscal periods that begin after 1997.

4 Section 6 presently reads in part:

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

5 Cost amount of property and depreciable property.

6 Federal transfer pricing rules.

7 Section 12(2) is amended by striking out “Subsection 67.5(2) of the federal Act does” **and substituting** “Subsections 67.5(2) and 69(12) of the federal Act do”.

8 Section 14(1) is repealed and the following is substituted:

Computation
of income of
corporations

14(1) Subject to subsections (2), (3), (3.1), (3.2) and (4) and sections 14.1, 14.2 and 14.3, subdivision h of Division B of Part I of the federal Act applies for the purposes of this Act.

9 The following is added after section 14:

Transfer of
property to a
corporation

14.1(1) Subsection 85(1) of the federal Act applies in respect of the transfer of property to a corporation for the purposes of this Act only if

- (a) a valid federal election has been made under subsection 85(1) of the federal Act in respect of the transfer of that property; and
- (b) a copy of the prescribed federal election form filed under the federal Act is filed with the Provincial Treasurer in accordance with section 14.3 of this Act.

(2) Subject to subsection (3), where subsection 85(1) of the federal Act applies for the purposes of this Act in respect of the transfer of property from a corporation, the amount deemed to be the proceeds of disposition of the property to the corporation disposing of the property and the cost of the property to the corporation acquiring the property for the purposes of the federal Act is the amount to be deemed for the purposes of this Act.

(3) If

- (a) the corporation disposing of the property was a qualified party for the taxation year in which it disposed of the property, and
- (b) the corporation acquiring the property was a qualified party for the taxation year in which it acquired the property and throughout all of its taxation years beginning in the 36 months

7 Section 12(2) presently reads in part:

(2) Subsection 67.5(2) of the federal Act does not apply for the purposes of this Act.

8 Section 14(1) presently reads:

14(1) Subject to subsections (2), (3), (3.1), (3.2) and (4), subdivision h of Division B of Part I of the federal Act applies for the purpose of this Act.

9 Transfer of property to another corporation; transfer of property from partnership; filing of election form.

subsequent to the end of the taxation year in which it acquired the property,

the corporation disposing of the property and the corporation acquiring the property may, for the purposes of this Act, jointly elect in the prescribed form and in accordance with section 14.3(3) an amount under subsection (4) to be the proceeds of disposition of the property to the corporation disposing of the property and the cost of the property to the corporation acquiring the property.

(4) For the purposes of an election under subsection (3), one of the following may be elected:

- (a) the amount deemed to be the proceeds of disposition and the cost of the property under the federal Act;
- (b) the amount equal to the amount in clause (a) less the cost amount of the property for the purposes of the computation of income under the federal Act, plus the cost amount of the property for the purposes of the computation of income under this Act, both determined immediately before the disposition to which the election relates;
- (c) an amount that is greater than the lesser of the amounts described in clauses (a) and (b), but less than the greater of the amounts described in clauses (a) and (b).

(5) For the purposes of subsection (3), a qualified party is a corporation whose Alberta allocation factor for the particular taxation year, as determined by section 19(1), is at least 90%.

Transfer of
property from
a partnership

14.2(1) Subsection 85(2) of the federal Act applies in respect of the transfer of property to a corporation from a partnership for the purposes of this Act only if

- (a) a valid federal election has been made under subsection 85(2) of the federal Act in respect of the transfer of that property, and
- (b) a copy of the prescribed federal election form filed under the federal Act is filed with the Provincial Treasurer in accordance with section 14.3 of this Act.

(2) Subject to subsection (3), where subsection 85(2) of the federal Act applies for the purposes of this Act and a corporation is a member of the partnership disposing of the property, the amount deemed to be the proceeds of disposition of the property to the partnership disposing of the property and the cost of the property to the corporation acquiring the property for the purposes of the federal Act is the amount to be deemed for the purposes of this Act.

(3) If

- (a) one or more of the members of the partnership disposing of the property is a corporation,
- (b) the partnership disposing of the property was a qualified party for the fiscal period in which it disposed of the property, and
- (c) the corporation acquiring the property was a qualified party for the taxation year in which it acquired the property and throughout all of its taxation years beginning in the 36 months subsequent to the end of the taxation year in which it acquired the property,

all of the members of the partnership disposing of the property and the corporation acquiring the property may, for the purposes of this Act, jointly elect in the prescribed form and in accordance with section 14.3(3) an amount under subsection (4) to be the proceeds of disposition of the property to the partnership disposing of the property and the cost of the property to the corporation acquiring the property.

(4) For the purposes of an election under subsection (3), one of the following may be elected:

- (a) the amount deemed to be the proceeds of disposition and the cost of the property under the federal Act;
- (b) the amount equal to the amount in clause (a) less the cost amount of the property for the purposes of the computation of income under the federal Act, plus the cost amount of the property for the purposes of the computation of income under this Act, both determined immediately before the disposition to which the election relates;

- (c) an amount that is greater than the lesser of the amounts described in clauses (a) and (b), but less than the greater of the amounts described in clauses (a) and (b).

(5) For the purposes of subsection (3), a qualified party is

- (a) in the case of a corporation, a corporation whose Alberta allocation factor for the particular taxation year, as determined by section 19(1), is at least 90%, and
- (b) in the case of a partnership, a partnership which, if it were treated as a corporation having a taxation year corresponding to its fiscal period, would have an Alberta allocation factor for the particular taxation year, as determined by section 19(1), of at least 90%.

Filing of
election form

14.3(1) The copy of the prescribed federal election form to be filed with the Provincial Treasurer under section 14.1(1) or 14.2(1) must be filed within the time limitations that apply for filing the prescribed federal election form under the federal Act.

(2) Subsections 85(7), 85(7.1), 85(8) and 85(9) of the federal Act apply for the purposes of the filing of the prescribed federal election form with the Provincial Treasurer in accordance with subsection (1) except that in applying those subsections for the purposes of this Act, the penalties payable to the Provincial Treasurer are 1/2 of the amounts described in those subsections.

(3) The election form referred to in sections 14.1(3) and 14.2(3) must be filed with the Provincial Treasurer by the corporation that acquired the property at the time its income tax return is due for the last taxation year beginning in the 36-month period referred to in section 14.1(3)(b) or 14.2(3)(c), as the case may be.

10 Section 16 is repealed and the following is substituted:

Partnership

16 Subject to sections 16.1 and 16.2, subdivision j of Division B of Part I of the federal Act applies for the purposes of computing the income of a corporation.

10 Section 16 presently reads:

16 Subdivision j of Division B of Part I of the federal Act applies for the purposes of computing the income of a corporation.

11 The following is added after section 16:

Transfer of
property to a
partnership

16.1(1) Subsection 97(2) of the federal Act applies in respect of the transfer of property from a corporation to a partnership for the purposes of this Act only if

- (a) a valid federal election has been made under subsection 97(2) of the federal Act in respect of the transfer of that property, and
- (b) a copy of the prescribed federal election form filed under the federal Act is filed with the Provincial Treasurer in accordance with section 16.2 of this Act.

(2) Subject to subsection (3), where subsection 97(2) of the federal Act applies for the purposes of this Act, the amount deemed to be the proceeds of disposition of the property to the corporation disposing of the property and the cost of the property to the partnership acquiring the property for the purposes of the federal Act is the amount to be deemed for the purposes of this Act.

(3) If

- (a) the corporation disposing of the property was a qualified party in the taxation year in which it disposed of the property,
- (b) one or more of the members of the partnership acquiring the property was a corporation, and
- (c) the partnership acquiring the property was a qualified party for the fiscal period in which the acquisition occurred and throughout all of its fiscal periods beginning in the 36 months subsequent to the end of the fiscal period in which it acquired the property,

the corporation disposing of the property and all of the members of the partnership acquiring the property may, for the purposes of this Act, jointly elect in the prescribed form and in accordance with section 16.2(3) an amount under subsection (4) to be the proceeds of disposition of the property to the corporation disposing of the property and the cost of the property to the partnership acquiring the property.

(4) For the purposes of an election under subsection (3), one of the following may be elected:

11 Transfer of property to a partnership and filing of election form.

- (a) the amount deemed to be the proceeds of disposition and the cost of the property under the federal Act;
- (b) the amount equal to the amount in clause (a) less the cost amount of the property for the purposes of the computation of income under the federal Act, plus the cost amount of the property for the purposes of the computation of income under this Act, both determined immediately before the disposition to which the election relates;
- (c) an amount that is greater than the lesser of the amounts described in clauses (a) and (b), but less than the greater of the amounts described in clauses (a) and (b).

(5) For the purposes of subsection (3), a qualified party is

- (a) in the case of a corporation, a corporation whose Alberta allocation factor for the particular taxation year, as determined by section 19(1), is at least 90%, and
- (b) in the case of a partnership, a partnership which, if it were treated as a corporation having a taxation year corresponding to its fiscal period, would have an Alberta allocation factor for the particular taxation year, as determined by section 19(1), of at least 90%.

Filing of
election form

16.2(1) The copy of the prescribed federal election form to be filed with the Provincial Treasurer under section 16.1(1) must be filed within the time limitations that apply for filing the prescribed federal election form under the federal Act.

(2) Subsections 96(5), 96(5.1), 96(6) and 96(7) of the federal Act apply for the purposes of the filing of the prescribed federal election form with the Provincial Treasurer in accordance with subsection (1) except that in applying those subsections for the purposes of this Act, the penalties payable to the Provincial Treasurer are 1/2 of the amounts described in those subsections.

(3) The election form referred to in section 16.1(3) must be filed by all of the members of the partnership with the Provincial Treasurer at the time when the income tax return is first due for a member of the partnership that is a corporation for its taxation year that includes the last fiscal

period of the partnership beginning in the 36-month period referred to in section 16.1(3)(c).

12 Section 22.1 is repealed.

13(1) Section 23 is amended

(a) in subsection (2.1) by striking out “subsection (2)” and substituting “this section”;

(b) by adding the following after subsection (2.1):

(2.2) Subsections 126(4.1), (4.2), (4.3) and (4.4) of the federal Act apply for the purposes of computing a corporation’s non-business-income tax.

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

(4) For the purposes of this section, if any income from a source in a particular country would be tax-exempt income but for the fact that a portion of the income is subject to an income or profits tax imposed by the government of a country other than Canada, or of a state, province or other political subdivision of such a country, the portion is deemed to be income from a separate source in the particular country.

(2) Subsection (1)(a) and (b) apply to the 1998 and subsequent taxation years.

(3) Subsection (1)(c) applies to taxation years that begin after February 24, 1998.

12 Repeals provisions dealing with Alberta manufacturing and processing profits.

13 Section 23 presently reads:

23(1) For the purposes of this section, an amount referred to in subparagraph 126(1)(b)(i) of the federal Act from sources in a country other than Canada shall be referred to as "foreign investment income".

(2) If a corporation has included foreign investment income in computing its income for a taxation year and is entitled to a deduction under subsection 126(1) of the federal Act in respect of income or profits tax paid to a country outside Canada, it may deduct from the tax payable remaining after it has claimed the deductions under sections 22, 22.1 and 22.2 an amount equal to the lesser of

(a) the Alberta allocation factor multiplied by,

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

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

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

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

(iii) if the taxation year begins after March 31, 1987 and ends before April 1, 1991, 15% of the foreign investment income for the year from sources in that country, or

(iv) if the taxation year ends after March 31, 1991, the amount determined when the foreign investment

14 Section 26 is amended

- (a) in subsection (1)(c) by adding “, subject to subsection (1.1),” after “taxation year”;**
- (b) by repealing subsections (1.3), (1.4) and (1.8).**

income for the year from sources in that country is multiplied by the proportion that tax payable under section 21 for the year is of the amount taxable in Alberta for the year,

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

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

exceeds the aggregate of

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

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

and

(c) the amount of the tax remaining after it has claimed the deductions under sections 22, 22.1 and 22.2.

(2.1) For the purposes of subsection (2), “non-business-income tax” has the meaning assigned to it by subsection 126(7) of the federal Act without reference to paragraph (c) in the definition of “non-business-income tax”.

(3) If the income of a corporation for a taxation year includes income from sources in more than one country other than Canada, subsection (2) shall be deemed to provide for a separate deduction in respect of each of the countries other than Canada.

14 Section 26 presently reads in part:

26(1) In this Division,

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

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

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

less any amount that

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

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

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

where each of the amounts is or is in respect of a qualified royalty;

(1.3) The Provincial Treasurer may deem a corporation to be an above-limit corporation if at any time in the 365 day period ending August 24, 1982, the corporation

(a) was formed by the amalgamation of 2 or more corporations, or

(b) acquired an Alberta resource property

and if the corporation, had it had 3 different taxation years for the purposes of computing its income under the federal Act and this Act (with those 3 taxation years being represented separately by the calendar month periods of July, August and September of 1982), would have had Alberta crown royalty for any one of those taxation years in excess of \$444 444.

(1.4) The Provincial Treasurer may deem a corporation that is an above-limit corporation within the meaning of subsection (1)(a) not to be an above-limit corporation if that corporation

(a) disposed of an Alberta resource property at any time in the 365 day period ending August 24, 1982, and

(b) had it had 3 different taxation years for the purposes of computing its income under the federal Act and this Act (with the 3 taxation years being represented separately by the calendar month periods of July, August and September of 1982), would have had Alberta crown royalty for any one of those taxation years that was less than \$444 444.

(1.8) Notwithstanding subsections (1)(e) and (1.7), if after August 24, 1982 and before March 31, 1983 an exempt corporation has transferred all or substantially all of its Alberta resource properties to another corporation with which it was associated as of the date of the transfer, that other corporation shall be deemed to be an exempt corporation as of the date of the transfer.

15(1) Section 26.1 is amended

(a) in subsection (2) by striking out “subsection” and substituting “subsections (2.1), (2.11) and”;

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

(2.1) Subject to subsection (2.14), a corporation that is not associated with one or more corporations in a taxation year is not entitled to a royalty tax credit for the taxation year unless the amount determined by the following formula is a minimum of \$10 000:

$$\begin{array}{rcl} \text{Alberta crown royalty} & & 365 \\ \text{for the taxation year} & \times & \frac{\text{number of days in}}{\text{the taxation year}} \end{array}$$

(2.11) Subject to subsection (2.14), a corporation (referred to in this subsection and in subsections (2.12) and (2.13) as the claiming corporation) that is associated with one or more corporations in a taxation year is not entitled to a royalty tax credit for the taxation year unless the aggregate of the amounts determined by the following formula for the claiming corporation and each of its associated corporations is a minimum of \$10 000:

$$\begin{array}{rcl} \text{Alberta crown royalty} & & 365 \\ \text{for the taxation year} & \times & \frac{\text{number of days in}}{\text{the taxation year}} \end{array}$$

where “taxation year” refers, subject to subsections (2.12) and (2.13), to the taxation year of the claiming corporation when the formula is applied to that corporation and refers to the taxation year of an associated corporation ending in the same calendar year as the taxation year of the claiming corporation when the formula is applied to that associated corporation.

(2.12) If one of the corporations referred to in subsection (2.11) that is associated with the claiming corporation has more than one taxation year ending in the calendar year in which it is associated with the claiming corporation, the reference to “taxation year” in the formula in subsection (2.11) in respect of that associated corporation refers to the associated corporation’s longest taxation year ending in the calendar year.

15 Section 26.1 presently reads in part:

(2) Subject to subsection (14), a corporation that has Alberta crown royalty in a taxation year is entitled to a royalty tax credit for the year in the amount obtained when the weighted average rate for that year is multiplied by the lesser of

(a) its crown royalty shelter for the year, and

(b) its Alberta crown royalty for the year.

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

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

(i) \$2 500 000, and

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

and

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

(i) \$2 000 000, and

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

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

(a) the lesser of

(i) \$2 000 000, and

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

and

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

(3.2) Notwithstanding subsection (5), if 2 or more corporations are associated with each other in a taxation year and the taxation year

(2.13) Notwithstanding subsection (2.12), if a corporation referred to in subsection (2.1) or (2.11) has 2 consecutive taxation years and

- (a) in the case of a corporation referred to in subsection (2.1) or the claiming corporation, the total number of days in the 2 taxation years is less than or equal to 365 days, and
- (b) in the case of a corporation referred to in subsection (2.11) other than the claiming corporation, the 2nd of the consecutive taxation years is its last taxation year ending in the calendar year in which it is associated with the claiming corporation and the total number of days in the two taxation years is less than or equal to 365 days,

the total number of days in the 2 consecutive years is deemed to be the number of days in the taxation year for the corporation for the purposes of subsection (2.1) or (2.11).

(c) by adding the following after subsection (2.13):

(2.14) Where the taxation year of a corporation begins in 2000 and ends in 2001 and the corporation is not otherwise entitled to a royalty tax credit in the 2001 taxation year because of the application of subsection (2.1) or (2.11), the corporation's royalty tax credit for that taxation year is the amount obtained when Alberta crown royalty incurred in the period that begins on the first day of the taxation year and ends on December 31, 2000 is multiplied by the weighted average rate for that year.

(d) by repealing subsection (3)(a);

(e) by repealing subsections (3.1), (3.2), (3.3), (3.4) and (3.5);

(f) in subsection (4) by striking out “(3.2), (3.5),” and “, (7.02) or (7.05)”;

(g) by repealing subsection (5)(a);

(h) in subsection (5)(b) by striking out “if the taxation year begins after December 31, 1994,”;

(i) in subsection (6)(b) by striking out “(3.2), (3.5),” and “, (7.02) or (7.05)”;

of one of them begins before January 1, 1995 and ends after December 31, 1994, the aggregate of the crown royalty shelters for those corporations for the taxation year in which they are associated is the aggregate of

(a) the lesser of

(i) \$2 000 000, and

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

and

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

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

(a) the proportion of the lesser of

(i) \$2 000 000, and

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

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

(b) the amount for each of those partnerships that is equal to the proportion of the aggregate of

(i) the lesser of

(A) \$2 000 000, and

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

and

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

- (j) in subsection (7) by striking out “(3.2), (3.5),” and “, (7.02) or (7.05)”;**
 - (k) by repealing subsections (7.01) to (7.05);**
 - (l) in subsection (11)(a) by striking out “or to a taxation year commencing before January 1, 1982”.**
- (2) Subsection (1)(a), (b) and (c) apply after December 31, 2000.**

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

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

(a) ended in 1994 (in this subsection referred to as a "1994 partnership"), or

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

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

(c) the proportion of the aggregate of

(i) the lesser of

(A) \$2 000 000, and

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

and

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

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

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

(i) \$2 500 000, and

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

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

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

(i) the lesser of

(A) \$2 000 000, and

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

and

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

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

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

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

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

(i) the lesser of

(A) \$2 000 000, and

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

and

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

(4) If a corporation is associated with one or more corporations in a taxation year, its crown royalty shelter for the taxation year is that portion of the aggregate of the crown royalty shelters calculated under subsection (3.2), (3.5), (5), (7.02) or (7.05) that is allocated to the corporation under subsection (6) or (7).

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

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

(i) \$2 500 000, and

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

and

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

(i) \$2 000 000, and

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

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

(a) is among all of the corporations, and

(b) allocates the aggregate of the crown royalty shelters of the corporations calculated under subsection (3.2), (3.5), (5), (7.02) or (7.05).

(7) If the corporations referred to in subsection (6) do not file an agreement in accordance with subsection (6) within 60 days after notice by the Provincial Treasurer that an agreement under subsection (6) for a taxation year is required for the purposes of this Act is mailed to any of them, the Provincial Treasurer shall allocate the aggregate of the crown royalty shelters of the corporations calculated under subsection (3.2), (3.5), (5), (7.02) or (7.05) to one or more of the corporations, and the crown royalty shelter of each corporation for that taxation year is the amount, if any, allocated to it.

(7.01) Notwithstanding subsection (3), if a corporation is not associated with one or more corporations in a taxation year and part of the taxation year is before January 1, 1990 and part of it is after December 31, 1989, the crown royalty shelter of the corporation for that taxation year is the aggregate of

(a) the lesser of

(i) \$2 500 000, and

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

and

(b) the proportion of \$1 500 000 that the number of days in the taxation year before January 1, 1990 bears to 365.

(7.02) Notwithstanding subsection (5), if 2 or more corporations are associated with each other in a taxation year and the taxation year of one of them begins before January 1, 1990 and ends after December 31, 1989, the aggregate of the crown royalty shelters for those corporations for the taxation year in which they are associated is the aggregate of

(a) the lesser of

(i) \$2 500 000, and

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

and

(b) the proportion of \$1 500 000 that the number of days before January 1, 1990 in the taxation year of the corporation with the greatest number of days before January 1, 1990 bears to 365.

(7.03) Notwithstanding subsection (3), if in a taxation year of a corporation commencing after December 31, 1989 the corporation is not associated with one or more corporations and is a member of one or more partnerships whose fiscal periods ending in that taxation year commenced before January 1, 1990 and ended after December 31, 1989, the crown royalty shelter of the corporation for that taxation year is the aggregate of

(a) the proportion of the lesser of

(i) \$2 500 000, and

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

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

(b) an amount for each of those partnerships that is equal to the proportion of the aggregate of

(i) the lesser of

(A) \$2 500 000, and

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

and

(ii) the proportion of \$1 500 000 that the number of days in the fiscal period of that partnership before January 1, 1990 bears to 365,

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

(7.04) Notwithstanding subsections (3) and (7.01), if in a taxation year of a corporation part of which is before January 1, 1990 and part of which is after December 31, 1989 the corporation is not associated with one or more corporations and is a member of one or more partnerships whose fiscal periods ending in that taxation year

(a) ended in 1989, in this subsection referred to as a "1989 partnership", or

(b) commenced before January 1, 1990 and ended after December 31, 1989, in this subsection referred to as a "1990 partnership",

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

(c) the proportion of the aggregate of

(i) the lesser of

(A) \$2 500 000, and

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

and

(ii) the proportion of \$1 500 000 that the number of days in the taxation year before January 1, 1990 bears to 365

that the difference between the Alberta crown royalty of the corporation for the year and the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty of the corporation for the year from all the 1989 partnerships and the 1990 partnerships bears to the Alberta crown royalty of the corporation for the year,

(d) an amount for each of the 1989 partnerships that is equal to the proportion of the lesser of

(i) \$4 000 000, and

(ii) the proportion of \$4 000 000 that the number of days in the fiscal period of that partnership bears to 365

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

(e) an amount for each of the 1990 partnerships that is equal to the proportion of the aggregate of

(i) the lesser of

(A) \$2 500 000, and

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

and

(ii) the proportion of \$1 500 000 that the number of days in the fiscal period of that partnership before January 1, 1990 bears to 365,

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

(7.05) Notwithstanding subsections (5) and (7.02), if 2 or more corporations are associated with each other in a taxation year and one or more of the corporations is a corporation to which subsection (7.03) or (7.04) would apply if it were not associated with one or more corporations in that taxation year, the aggregate of the crown royalty shelters for those corporations for the taxation year in which they are associated is the greater of

(a) the crown royalty shelter of the corporation with the greatest crown royalty shelter for that taxation year determined pursuant to subsection (3), (7.01), (7.03) or (7.04) as if it were not associated, and

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

(i) the lesser of

(A) \$2 500 000, and

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

and

(ii) the proportion of \$1 500 000 that the number of days before January 1, 1990 in the taxation year of

the corporation with the greatest number of days before January 1, 1990 bears to 365.

(7.1) Notwithstanding anything in this Division, if at any time (in this subsection referred to as the "particular time") after November 3, 1983

- (a) control of a corporation (in this subsection referred to as the "particular corporation") has been acquired by a person, and*
- (b) the Provincial Treasurer is satisfied that the result of the acquisition of control of the particular corporation is that the amount of the royalty tax credit to which the particular corporation, or any corporation or group of corporations with which it is associated in the calendar year in which the particular time falls, is entitled is greater than the amount of the royalty tax credit to which the particular corporation, or any corporation or group of corporations with which the particular corporation is associated in the calendar year in which the particular time falls, would have been entitled, had control of the particular corporation not been acquired,*

the Provincial Treasurer may determine the amount of the royalty tax credit to which the particular corporation or any corporation or group of corporations with which it is associated in the calendar year in which the particular time falls shall be entitled for taxation years that end in the same calendar year as that in which the particular time falls.

(7.2) Notwithstanding anything in this Division, if at any time after November 3, 1983, a corporation (in this subsection referred to as the "particular corporation"), by reason of an amalgamation or otherwise

- (a) has a taxation year that ends before the time that it otherwise would have ended, or*
- (b) has 2 or more taxation years ending in the same calendar year,*

the Provincial Treasurer may determine the amount of the royalty tax credit to which

- (c) the particular corporation,*
- (d) any successor corporation formed on the amalgamation of the particular corporation with another corporation, or*
- (e) any corporation with which the particular corporation was associated in the calendar year in which any of the taxation years described in clauses (a) and (b) of the particular corporation end,*

shall be entitled for any of the taxation years of any of the corporations described in clauses (c), (d) and (e) that end in the

16 Section 26.2 is repealed.

17 Section 26.4(4)(a)(ii) is amended by striking out “as determined without reference to section 26.1(3.3), (3.4), (3.5), (7.03), (7.04) and (7.05)”.

same calendar year as any of the taxation years described in clauses (a) and (b) of the particular corporation.

(8) In computing the Alberta crown royalty of a corporation, no amount shall be included that would, if included, artificially increase the Alberta crown royalty of that corporation.

(9) If the Provincial Treasurer is satisfied that

(a) the separate existence of 2 or more corporations in a taxation year is not solely for the purpose of carrying out the business of those corporations in the most effective manner, and

(b) 1 of the main reasons for the separate existence of the corporations in that year is to increase the amount of royalty tax credit that would otherwise be determined under this Act,

the Provincial Treasurer may direct that all of the corporations shall be deemed to be associated with each other for the purposes of this Division.

(10) If in the opinion of the Provincial Treasurer, 2 or more corporations have at any time entered into 1 or more sales, exchanges, declarations of trust or other transactions that

(a) lack any substantial business purpose, other than increasing the aggregate amount of the royalty tax credit that may be claimed, or

(b) artificially increase the royalty tax credit that may be claimed,

the Provincial Treasurer may direct that all of those corporations shall be deemed to be associated with each other for the purposes of this Division.

(11) A direction made under subsection (9) or (10)

(a) shall not apply to a taxation year of any corporation prior to the taxation year for which the direction is made or to a taxation year commencing before January 1, 1982, and

(b) may be revoked by the Provincial Treasurer and, if revoked, shall not apply to the taxation year for which the revocation occurs or to any subsequent taxation year.

16 Repeals the rules for the royalty tax credit gas supplement.

17 Section 26.4(4)(a) presently reads:

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

(a) the product obtained when the lesser of

18 Section 26.41 is amended

- (a) in subsection (1) by striking out “and royalty tax credit gas supplements”;**
- (b) in subsection (2) by striking out “and royalty credit gas supplements”.**

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

(ii) *the corporation's estimated crown royalty shelter for the year as determined without reference to section 26.1(3.3), (3.4), (3.5), (7.03), (7.04) and (7.05)*

is multiplied by

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

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

exceeds

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

18 Section 26.41 presently reads:

26.41(1) The aggregate of all royalty tax credits and royalty tax credit gas supplements paid under this Act shall

(a) *be applied by the Provincial Treasurer to reduce non-renewable resource revenue, as defined in the Alberta Heritage Savings Trust Fund Act, and*

(b) *be deducted from the total amounts used to determine the transfers required to be made to the Alberta Heritage Savings Trust Fund pursuant to section 9 of the Alberta Heritage Savings Trust Fund Act or any Special Act referred to in that section and enacted before or after the commencement of this section, notwithstanding anything in those Acts.*

(2) The aggregate of all royalty credits and royalty credit gas supplements paid under Part 11 shall

(a) *be applied by the Provincial Treasurer to reduce non-renewable resource revenue, as defined in the Alberta Heritage Savings Trust Fund Act, and*

(b) *be deducted from the total amounts used to determine the transfers required to be made to the Alberta Heritage Savings Trust Fund pursuant to section 9 of the Alberta Heritage Savings Trust Fund Act or any Special Act referred to in that section and enacted before or after the commencement of this section, notwithstanding anything in those Acts.*

19(1) Section 28(1) is amended by striking out “other than a mutual fund corporation” and substituting “other than a corporation that was a mutual fund corporation throughout the year”.

(2) Subsection (1) applies to the 1993 and subsequent taxation years.

20 Section 30 is amended by repealing subsections (2), (2.01)(a) and (b), (4), (4.1), (5) and (5.1)(a) and (b).

19 Section 28 presently reads in part:

28(1) If a corporation is throughout a taxation year an investment corporation, other than a mutual fund corporation, subsections 131(1) and (2) of the federal Act, as made applicable by section 30 of this Act, apply as if

- (a) the corporation had been a mutual fund corporation throughout that and all previous taxation years ending after 1971 throughout which it was an investment corporation, and*
- (b) its capital gains redemption for that and all previous taxation years ending after 1971, throughout which it would but for the assumption made by clause (a) not have been a mutual fund corporation, were nil.*

20 Section 30 presently reads:

30(1) Subject to subsections (1.1) to (7), if a corporation is a mutual fund corporation, section 131 of the federal Act applies for the purposes of this Act.

(1.1) Subsection 131(2) of the federal Act applies only for the purpose of determining the amount of capital gains refund of a corporation for a taxation year.

(2) In the application of subparagraph 131(2)(a)(i) of the federal Act for the purposes of this Act, the reference to "18%" shall be read,

- (a) in respect of a taxation year ending before April 1, 1987, as a reference to "5.5%",*
- (b) in respect of a taxation year part of which is before April 1, 1987 and part of which is after March 31, 1987 as a reference to the aggregate of*
 - (i) the proportion of 5.5% that the number of days in the year before April 1, 1987 bears to the number of days in the year, and*
 - (ii) the proportion of 7.5% that the number of days in the year after March 31, 1987 bears to the number of days in the year,*

or

- (c) in respect of a taxation year beginning after March 31, 1987 and ending before July 1, 1988, as a reference to "7.5%".*

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

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

and

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

(4) In the application of clause 131(6)(a)(i)(A) and clause 131(6)(b)(ii)(C) of the federal Act for the purposes of this Act, the reference to “50/9” shall be read,

- (a) in respect of a taxation year ending before April 1, 1987, as a reference to “200/11”,*
- (b) in respect of a taxation year part of which is before April 1, 1987 and part of which is after March 31, 1987, as a reference to the aggregate of*
 - (i) 200/11 times the number of days in the year before April 1, 1987 divided by the number of days in the year, and*
 - (ii) 40/3 times the number of days in the year after March 31, 1987 divided by the number of days in the year,*

or

- (c) in respect of a taxation year beginning after March 31, 1987 and ending before July 1, 1988, as a reference to “40/3”.*

(4.1) In the application of clauses 131(6)(a)(i)(A) and 131(6)(b)(ii)(C) of the federal Act for the purposes of this Act,

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

and

- (c) in respect of a taxation year ending after March 31, 1991 and before January 1, 1992, the reference to any fraction in clauses 131(6)(a)(i)(A) and 131(6)(b)(ii)(C) shall be read as a reference to the fraction obtained when 1 is divided by $\frac{3}{4}$ of the proportion that tax payable under section 21 for the year is of the amount taxable in Alberta for the year.

(4.2) In the application of the definitions of “capital gains dividend account” and “capital gains redemptions” in subsection 131(6) of the federal Act for the purposes of this Act in respect of a taxation year ending after December 31, 1991, a reference in those definitions to any fraction of the corporation's capital gains refund for the year or refundable capital gains tax on hand at the end of the year shall be read as a reference to the fraction obtained when 1 is divided by $\frac{3}{4}$ of the proportion that tax payable under section 21 for the year is of the amount taxable in Alberta for the year.

(5) In the application of paragraph 131(6)(d) of the federal Act for the purposes of this Act, subparagraph (i) shall be read without reference to clause (C) and the reference to “36%” in clauses (A) and (B) of that subparagraph shall be read,

- (a) in respect of a taxation year ending before April 1, 1987, as a reference to “11%”,
- (b) in respect of a taxation year part of which is before April 1, 1987 and part of which is after March 31, 1987, as a reference to the aggregate of
 - (i) the proportion of 11% that the number of days in the year before April 1, 1987 bears to the number of days in the year, and
 - (ii) the proportion of 15% that the number of days in the year after March 31, 1987 bears to the number of days in the year,

or

- (c) in respect of a taxation year beginning after March 31, 1987 and ending before July 1, 1988, as a reference to “15%”.

(5.1) In the application of the definition of “refundable capital gains tax on hand” in subsection 131(6) of the federal Act for the purposes of this Act,

- (a) in respect of a taxation year ending after March 31, 1991 and before December 1, 1991, the reference to the percentage in clauses (A) and (B) in subparagraph (i) shall be read as a reference to the proportion that tax payable under section 21 for the year is of the amount taxable in Alberta for the year,
- (b) in respect of a taxation year ending after June 30, 1988 and before December 1, 1991, clause (C) of subparagraph (i) shall be read as if “this Part for the

21(1) Section 30.01 is repealed and the following is substituted:

Amounts
designated by
mutual fund
trust

30.01 When a corporation is or becomes a beneficiary under a mutual fund trust, sections 132.1 and 132.11 of the federal Act apply for the purposes of determining the income of the corporation under this Act.

(2) This section applies to the 1998 taxation year and subsequent taxation years.

year determined without reference to section 123.2” were struck out and “this Act for the year” were substituted, and

(c) in respect of a taxation year ending after November 30, 1991

(i) the reference to the percentage in clauses (a) and (b) in A of the definition shall be read as a reference to the proportion that tax payable under section 21 for the year is of the amount taxable in Alberta for the year, and

(ii) clause (c) in A of the definition shall be read as if “this Part for the year determined without reference to section 123.2” were struck out and “this Act for the year” were substituted.

(6) If a corporation had a permanent establishment in a jurisdiction outside Alberta during a taxation year in respect of which this section applies, the capital gains refund under this section shall be the capital gains refund otherwise determined under this section multiplied by the Alberta allocation factor, except that this subsection does not apply to the capital gains refund referred to in subparagraph (b)(iii) of the definition of “capital gains dividend account” or the description of B in the definition of “refundable capital gains tax on hand” in subsection 131(6) of the federal Act, as made applicable by this section.

(7) Subsections 131(1.3), (1.4), (3), (3.1), (3.2), (5) and (9) and paragraph 131(1.1)(b) of the federal Act do not apply for the purposes of this Act.

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

21 Section 30.01 presently reads:

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

22 The following is added after section 34.01:

Cost of tax
shelter
investments

34.02(1) Subject to subsections (2), (3), (4) and (5), section 143.2, except subsection (15), and subsection 237.1(1) of the federal Act apply in computing the income of a corporation under this Act.

(2) Where the Minister of National Revenue has initiated a federal assessment action for a taxation year of a corporation applying subsection 143.2(13) of the federal Act, the amount deemed to be a limited-recourse amount in relation to an expenditure pursuant to subsection 143.2(13) of the federal Act is deemed to be the limited-recourse amount relating to the expenditure under this Act.

(3) Where the Minister of National Revenue has initiated a federal assessment action for a taxation year of a corporation applying subsection 143.2(14) of the federal Act, the corporation and such other taxpayers as the Minister of National Revenue has determined are not dealing at arm's length for the purposes of section 143.2 of the federal Act are deemed not to be dealing with each other at arm's length for the purposes of this section.

(4) No amount may be deducted or claimed by a corporation for the purposes of this Act in respect of a tax shelter unless the corporation has filed with the Minister of National Revenue the prescribed form containing prescribed information, including the identification number for the tax shelter, pursuant to the requirements of section 237.1 of the federal Act.

(5) No amount may be deducted or claimed by a corporation for the purposes of this Act for any taxation year in respect of a tax shelter of the corporation if the corporation is liable to a penalty under subsection 237.1(7.4) or 162(9) of the federal Act in respect of the tax shelter or interest on the penalty and

(a) the penalty or interest has not been paid, or

(b) the penalty and interest have been paid, but an amount on account of the penalty or interest has been repaid under subsection 164(1.1) of the federal Act or applied under subsection 164(2) of the federal Act.

22 Cost of tax shelter investments.

(6) Subject to subsections (7) to (11), subsections (1) to (3) apply to property acquired and to outlays and expenses made or incurred by a taxpayer after November 1994.

(7) Subsections (1) to (3) do not apply where

(a) the property was acquired, or the outlay or expense was made or incurred, before 1995 pursuant to an agreement in writing made by the taxpayer before December 1994, or

(b) the property is

(i) a film production prescribed for the purpose of subparagraph 96(2.2)(d)(ii) of the federal Act, as it applies for the purposes of this Act, where

(A) the principal photography of the production began before 1995 or, in the case of a production that is a television series, one episode of the series began before 1995, and

(B) the principal photography of the production was completed before March 2, 1995,

or

(ii) an interest in a partnership (all or substantially all of the property of which is a film production referred to in subclause (i)) acquired before 1995 by a taxpayer that is a partnership,

and the following conditions are met:

(c) in the case of an interest that is a tax shelter for which section 237.1 of the federal Act requires an identification number to be obtained from the Minister of National Revenue under the federal Act, the identification number was obtained before December 1994;

(d) there is no agreement or other arrangement under which the taxpayer's obligations with respect to the interest can be changed, reduced or waived if there is a change to this Act or the federal Act or if there is an adverse assessment under this Act or the federal Act.

(8) Subsections (1) to (3) do not apply to revenue guarantees prescribed for the purpose of subparagraph 96(2.2)(d)(ii) of the federal Act, as it applies for the purposes of this Act, that were granted before 1996.

(9) Subparagraph 143.2(6)(b)(ii) of the federal Act as it applies for the purposes of this Act does not apply

(a) to property acquired, or outlays or expenses made or incurred, by a taxpayer before April 27, 1995, or

(b) to property acquired, or outlays or expenses made or incurred, by a taxpayer before 1996 pursuant to a particular agreement in writing made by the taxpayer before April 27, 1995 where the following conditions are met:

(i) in the case of a property that is a tax shelter for which section 237.1 of the federal Act requires an identification number to be obtained from the Minister of National Revenue under the federal Act, the identification number was obtained before April 27, 1995, and

(ii) there is no agreement or other arrangement under which the taxpayer's obligations under the particular agreement can be changed, reduced or waived if there is a change to this Act or the federal Act or if there is an adverse assessment under this Act or the federal Act.

(10) Paragraph 143.2(7)(a) of the federal Act, as it applies for the purposes of this Act, is to be read without reference to "not exceeding 10 years" where

(a) the indebtedness arises

(i) pursuant to the terms of an agreement in writing made by the taxpayer before April 27, 1995,

(ii) before 1996, in respect of the acquisition of a film production prescribed for the purpose of subparagraph 96(2.2)(d)(ii) of the federal Act, as it applies for the purposes of this Act, or an interest in a partnership all or substantially all of the property of which is either a film production prescribed for the purpose of that subparagraph or an interest in one or more partnerships all or

substantially all of the property of each of which is such a film production, where

- (A) the principal photography of the production began before 1996 or, in the case of a production that is a television series, the principal photography of one episode of the series began before 1996, and
- (B) the principal photography of the production was completed before March 1996,

or

(iii) before July 1995

- (A) pursuant to the terms of a document that is a prospectus, preliminary prospectus or registration statement filed before April 27, 1995 with a public authority in Canada pursuant to and in accordance with the securities legislation of Canada or of any province and, where required by law, accepted for filing by the public authority, and the funds so raised were expended before 1996 on expenditures contemplated by the document, or
- (B) pursuant to the terms of an offering memorandum distributed as part of an offering of securities where
 - (I) the memorandum contained a complete or substantially complete description of the securities contemplated in the offering as well as the terms and conditions of the offering,
 - (II) the memorandum was distributed before April 27, 1995,
 - (III) solicitations in respect of the sale of the securities contemplated by the memorandum were made before April 27, 1995,
 - (IV) the sale of the securities was substantially in accordance with the memorandum, and

(V) the funds were expended before 1996 in accordance with the memorandum,

and

(b) the following conditions are met:

- (i) in the case of an interest to which clause (a)(i) or (iii) applies that is a tax shelter for which section 237.1 of the federal Act requires an identification number to be obtained from the Minister of National Revenue under the federal Act, the identification number was obtained before April 27, 1995;
- (ii) there is no agreement or other arrangement under which the taxpayer's obligations with respect to the interest can be changed, reduced or waived if there is a change to this Act or the federal Act or if there is an adverse assessment under this Act or the federal Act.

(11) Subsection 143.2(8) of the federal Act, as it applies for the purposes of this Act, does not apply to a taxpayer in respect of an indebtedness

(a) where the indebtedness

(i) arose, and

(ii) is related to property acquired, or outlays or expenses made or incurred, by the taxpayer

before April 27, 1995, or

(b) where the indebtedness

(i) arose, and

(ii) is related to property acquired, or outlays or expenses made or incurred, by the taxpayer,

before 1996 pursuant to a particular agreement in writing made by the taxpayer before April 27, 1995 and there is no agreement or other arrangement under which the taxpayer's obligations under the particular agreement can be changed, reduced or waived if there is a change to this Act or the federal

Act or if there is an adverse assessment under this Act or the federal Act.

(12) Subsections (4) and (5) apply after December 1, 1994.

23(1) Section 35 is amended

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

(3) Where, at any time (in this subsection referred to as “that time”), a corporation becomes or ceases to be exempt from tax under this Act on its taxable income otherwise than by reason of paragraph 149(1)(t) of the federal Act, as it applies for the purposes of this Act, the following rules apply:

- (a) the taxation year of the corporation that would otherwise have included that time is deemed to have ended immediately before that time, a new taxation year of the corporation is deemed to have begun at that time and, for the purpose of determining the corporation’s fiscal period after that time, the corporation is deemed not to have established a fiscal period before that time;
- (b) for the purpose of computing the corporation’s income for its first taxation year ending after that time, the corporation is deemed to have claimed or deducted, under sections 20, 138 and 140 of the federal Act, as they apply for the purposes of this Act, in computing its income for its taxation year ending immediately before that time, the greatest amount that could have been claimed or deducted for that year as a reserve under those sections;
- (c) the corporation is deemed to have disposed, at the time (in this subsection referred to as the “disposition time”) that is immediately before the time that is immediately before that time, of each property that was owned by it immediately before that time for an amount equal to its fair market value at that time and to have reacquired the property at that time at a cost equal to that fair market value;
- (d) for the purposes of applying section 23 of this Act and sections 37, 65 to 66.4, 66.7 and 111 of the

23 Section 35 presently reads in part:

(3) If at any time, in this subsection referred to as “that time”, a corporation becomes or ceases to be exempt from tax under this Act on its taxable income other than as a result of its becoming or ceasing to be a corporation referred to in paragraph 149(1)(t) of the federal Act, the following rules apply:

(a) the taxation year of the corporation that would otherwise have included that time shall be deemed to have ended immediately before that time and a new taxation year of the corporation shall be deemed to have commenced at that time;

(a.1) for the purpose of computing the corporation’s income for its first taxation year ending after that time, the corporation shall be deemed to have claimed or deducted, under sections 20, 138 and 140 of the federal Act as they apply for the purposes of this Act, in computing its income for its taxation year ending immediately before that time the greatest amount that could have been claimed or deducted for that year as a reserve under those sections;

(b) the corporation shall be deemed to have disposed, immediately before the time that is immediately before that time, of each property, other than, where, at that time, the corporation ceases to be exempt from tax under this Act on its taxable income, a Canadian resource property or a foreign resource property, that was owned by it immediately before that time for an amount equal to its fair market value at that time and to have reacquired the property at that time at a cost equal to that fair market value;

(c) if clause (b) applies in respect of depreciable property of the corporation and the capital cost of it to the corporation immediately before the disposition exceeds the fair market value of it at that time, for the purposes of section 8,

(i) the capital cost of the property to the corporation at that time shall be deemed to be the amount that was the corporation’s capital cost of the property immediately before the disposition, and

federal Act, as they apply for the purposes of this Act, to the corporation, the corporation is deemed to be a new corporation the first taxation year of which began at that time;

(e) where, immediately before the disposition time, the corporation's cumulative eligible capital in respect of a business exceeds the total of

(i) $\frac{3}{4}$ of the fair market value of the eligible capital property in respect of the business, and

(ii) the amount otherwise deducted under paragraph 20(1)(b) of the federal Act, as it applies for the purposes of this Act, in computing the corporation's income from the business for the taxation year that ended immediately before that time,

the excess shall be deducted under paragraph 20(1)(b) of the federal Act, as it applies for the purposes of this Act, in computing the corporation's income from the business for the taxation year that ended immediately before that time.

(b) by repealing subsection (4).

(2) Subsection (1)(a) applies to a corporation that becomes or ceases to be exempt from tax on its taxable income after April 26, 1995.

24(1) The following is added after section 37.1:

Penalty for
inadequate
records

37.2(1) The Provincial Treasurer may provide written notice, served personally or by mail, to a corporation demanding that all information necessary to substantiate the amount of royalty tax credit for a taxation year that the corporation has claimed entitlement to on any prescribed form filed pursuant to section 26.1(14) (in this section referred to as the "royalty tax credit claim") be made available for examination by an officer of the Treasury Department at the corporation's normal place of business within 30 days after the date set out in the notice.

(2) If, after the expiration of the 30-day period referred to in subsection (1), the officer of the Treasury Department determines that

- (ii) *the excess shall be deemed to have been allowed to the corporation in respect of the property in computing its income for taxation years ending before that time;*
- (d) *notwithstanding section 111 of the federal Act, no amount is deductible in computing the corporation's taxable income for a taxation year ending after that time in respect of a non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year ending before that time to the extent that the loss could have been applied to reduce the corporation's taxable income for taxation years ending before that time.*
- (4) *Subsection (3) does not apply to a corporation that ceases to be exempt from tax under this Act after November 12, 1981 by reason of control of the corporation being acquired by a person or persons pursuant to an agreement in writing entered into on or before that date.*

24 Penalty for inadequate records.

- (a) information to substantiate all of the corporation's royalty tax credit claim has not been made available by the corporation within the 30-day period, or
- (b) the information made available by the corporation within the 30-day period does not substantiate all of the corporation's royalty tax credit claim,

the corporation is liable to pay a penalty in an amount equal to 25% of the difference between

- (c) the amount of the corporation's royalty tax credit claim, and
- (d) the amount of the royalty tax credit the corporation would have been entitled to for the taxation year under this Act based on the information made available by the corporation to the Provincial Treasurer within the 30-day period.

(3) A penalty under subsection (2) applies even if it is determined subsequent to the expiration of the 30-day period, from additional information supplied by the corporation to the satisfaction of the Provincial Treasurer or on appeal from a determination made by the Provincial Treasurer, that the corporation is entitled to a royalty tax credit for the taxation year in excess of the amount that would have been payable to the corporation for the taxation year under this Act based on the information made available to the Provincial Treasurer within the 30-day period.

(2) This section applies to all claims filed after the coming into force of this section.

25 Section 39(3) is amended

- (a) by striking out "or a part or an instalment of tax" and substituting "or a part of an instalment of tax";**
- (b) in clause (a)**
 - (i) by striking out the words before subclause (i) and substituting the following:**
 - (a) the tax payable by the corporation for the year is deemed to be the amount that it would be if the consequences of the deduction or exclusion

25 Section 39(3) presently reads:

(3) For the purpose of computing interest under subsection (1) or (2) on tax or a part or an instalment of tax for a taxation year and for the purpose of section 73.1,

(a) the tax payable by the corporation for the year shall be deemed to be the amount that it would have been if none of the following amounts, namely,

(i) any amount deducted under this Act by virtue of the application of section 41 of the federal Act in respect of its listed-personal-property loss for a subsequent taxation year,

of the following amounts were not taken into consideration:

- (ii) by striking out “or” at the end of subclause (ii) and substituting “and”;**
- (iii) by striking out the words after subclause (iii) and substituting “and” .**
- (c) in clause (b) by striking out “by virtue of the exclusion or deduction of an amount described in clause (a) shall be deemed” and substituting “as a consequence of the deduction or exclusion of amounts described in clause (a) is deemed”.**

26(1) Section 41 is amended

- (a) by repealing subsection (4) and substituting the following:**

(4) The provisions of this Act relating to an assessment or reassessment and to assessing or reassessing tax apply to a determination or redetermination of an amount, except that

- (a) subsection (1) and section 42(1) do not apply to determinations made under subsections (1.11) and (2),
- (b) an original determination of a corporation's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year may be made by the Provincial Treasurer only at the request of the corporation, and

(ii) *any amount excluded from its income for the year under this Act by virtue of the application of section 49 of the federal Act in respect of the exercise of an option in a subsequent taxation year, or*

(iii) *any amount deducted under this Act by virtue of the application of section 111 of the federal Act in respect of a loss for a subsequent taxation year,*

were so excluded or deducted for the year, as the case may be, and

(b) *the amount by which the tax payable by the corporation for the year is reduced by virtue of the exclusion or deduction of an amount described in clause (a) shall be deemed to have been paid by the corporation on account of tax payable for the year on the day that is the latest of*

(i) *the first day immediately following that subsequent taxation year,*

(ii) *the day on which the corporation's return under section 36 for that subsequent taxation year was filed,*

(iii) *if an amended return for the taxation year or a prescribed form amending its return for the year was filed under this Act by virtue of the application of subsection 49(4) of the federal Act or section 44 of this Act, the day on which the amended return or prescribed form was filed, and*

(iv) *if, as a consequence of a request, the Provincial Treasurer reassessed the corporation's tax for the year to take into account the exclusion or deduction, the day on which the request was made.*

26 Section 41 presently reads:

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

(a) *the amounts of the refundable tax credits, if any, for the taxation year, and*

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

(1.1) Notwithstanding section 43(1) to (3), where the Provincial Treasurer has accepted an election or an amendment to or revocation of an election referred to in subsection 220(3.2) of the federal Act, such assessment of the tax payable by each corporation in respect of any taxation year commencing before the day the Provincial Treasurer receives the relevant application or notification

- (c) section 47(4.4) does not apply to a determination or redetermination to which the corporation is bound by virtue of subsection (6).

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

(6) Where a corporation is a member of a partnership in a taxation year, for the purposes of calculating

- (a) the income, taxable income or taxable income earned in Canada of,
- (b) the tax or other amount payable by,
- (c) any amount refundable to, or
- (d) any amount deemed to have been paid or to have been an overpayment by

the corporation as a member of the partnership for any taxation year under this Act, the corporation is bound by any determination or redetermination by the Minister of National Revenue pursuant to subsection 152(1.4) of the federal Act with respect to the income or loss of the partnership or any deduction or other amount, or any other matter, in respect of the partnership for the fiscal period referred to in subsection 152(1.4) of the federal Act or a decision of the Tax Court of Canada, the Federal Court of Canada or the Supreme Court of Canada rendered in any appeal undertaken by any member of the partnership from such determination or redetermination where such determination, redetermination or decision is final and all rights of objection and appeal have expired.

(7) Notwithstanding sections 43(1), (1.02), (2) and (3), the Provincial Treasurer may, before the end of the day that is one year after the day that the Minister of National Revenue initiates a federal assessment action with respect to a corporation pursuant to paragraph 152(1.7)(b) of the federal Act, assess the tax, interest, penalties or other amounts payable and determine an amount deemed to have been paid or to have been an overpayment under this Act in respect of the corporation as a member of the partnership insofar as it is necessary to give effect to the determination or redetermination made by the Minister of National Revenue pursuant to subsection 152(1.7) of the federal Act or a decision of the Tax Court of Canada, the Federal Court of Canada or the Supreme Court of Canada rendered in any

shall be made as is necessary to take into account the election or the amended or revoked election, as the case may be.

(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.

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

(1.12) A determination of an amount shall not be made under subsection (1.11) with respect to a corporation at a time when that amount is relevant only 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 for a taxation year ending before that time.

(2) When the Provincial Treasurer ascertains the amount of a corporation's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year and the corporation has not reported that amount as a non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss in its return filed for that year, the Provincial Treasurer shall, at the request of the corporation, determine with all due dispatch the amount of the corporation's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss, as the case may be, and shall send a notice of determination to the person who filed the return.

(3) Subsection (1) and section 42(1) do not apply to a determination made under subsection (2).

(4) The provisions of this Part relating to an assessment or reassessment and to assessing or reassessing tax apply to a determination or redetermination under this Division, except that subsection (1) and section 42(1) are not applicable to determinations made under subsection (1.11) or (2), and an original determination of a corporation's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year may be made by the Provincial Treasurer only at the request of the corporation.

appeal undertaken by any member of the partnership from such determination or redetermination.

(8) Where, at any time, pursuant to subsection 152(1.8) of the federal Act, the Minister of National Revenue, the Tax Court of Canada, the Federal Court of Canada or the Supreme Court of Canada concludes that the partnership referred to in that subsection did not exist for the fiscal period referred to in subsection 152(1.4) of the federal Act or that, throughout the fiscal period, a corporation was not a member of the partnership, the Provincial Treasurer may, notwithstanding sections 43(1), (1.02), (2) and (3), within one year after the Minister of National Revenue undertakes a federal assessment action referred to in subsection 152(1.8) of the federal Act with respect to the corporation, assess the tax, interest, penalties or other amounts payable, or determine an amount deemed to have been paid or to have been an overpayment under this Act by the corporation for any taxation year, but only to the extent that the assessment or determination can reasonably be regarded

- (a) as relating to any matter that was relevant in the making of the determination made by the Minister of National Revenue pursuant to subsection 152(1.4) of the federal Act,
- (b) as resulting from the conclusion that the partnership did not exist for the fiscal period referred to in subsection 152(1.4) of the federal Act, or
- (c) as resulting from the conclusion that the corporation was throughout the fiscal period referred to in subsection 152(1.4) of the federal Act, not a member of the partnership.

(9) In this section, “partnership” means a partnership of which a corporation is a member.

(2) Subsection (1)(a) applies in respect of determinations or redeterminations made after June 18, 1998.

(3) Subsection (1)(b) applies in respect of determinations or redeterminations made after June 18, 1998.

(5) If the Provincial Treasurer makes a determination of the amount of a corporation's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year under subsection (2) or makes a determination under subsection (1.11) with respect to a corporation, subject to the corporation's rights of objection and appeal in respect of a determination and to any redetermination by the Provincial Treasurer, the determination is binding on both the Provincial Treasurer and the corporation for the purpose of calculating 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 for any taxation year.

27(1) Section 43 is amended

(a) by repealing subsection (0.1) and substituting the following:

Assessment,
reassessment,
etc.

43(0.1) For the purpose of this section, the normal reassessment period of a corporation in respect of a taxation year is,

- (a) if at the end of the year the corporation is a Canadian-controlled private corporation, the period that ends 3 years after the earlier of
 - (i) the day of mailing of a notice of an original assessment under this Act in respect of the corporation for the year, and
 - (ii) the day of mailing of an original notification that no tax is payable by the corporation for the year,

and

- (b) in any other case, the period that ends 4 years after the earlier of
 - (i) the day of mailing of a notice of an original assessment under this Act in respect of the corporation for the year, and
 - (ii) the day of mailing of an original notification that no tax is payable by the corporation for the year.

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

(1) The Provincial Treasurer may at any time make an assessment, reassessment or additional assessment of tax for a taxation year, interest or penalties, if any, payable under this Act by a corporation, notify in writing any corporation by whom a return of income for a taxation year has been filed that no tax is payable for the year, or determine the corporation's entitlement to and the amount, if any, of a refundable tax credit for a taxation year, except that an assessment, reassessment or additional assessment may be made after the corporation's normal reassessment period in respect of the year only if

27 Section 43 presently reads:

43(0.1) For the purpose of this section, the normal reassessment period in respect of a corporation for a taxation year is,

- (a) if at the end of the year the corporation is a Canadian-controlled private corporation, the period that ends 3 years after the date of mailing of a notice of an original assessment for the year under this Act or the date of mailing of a notification that no tax is payable for the year, or*
- (b) in any other case, the period that ends 4 years after the date of mailing of a notice of an original assessment for the year under this Act or the date of mailing of a notification that no tax is payable for the year.*

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

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

- (a) the corporation or person filing the return
 - (i) has made any 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,
 - (ii) has filed with the Provincial Treasurer a waiver in prescribed form within the normal reassessment period for the corporation in respect of the year,
 - (iii) has filed with the Provincial Treasurer a waiver in prescribed form within any other period established by this Act during which the Provincial Treasurer may reassess, make additional assessments of or assess tax, interest or penalties or determine the entitlement to and the amount, if any, of any refundable tax credits, or
 - (iv) has failed to comply with section 36.2,
- (a.1) the assessment or reassessment is required pursuant to section 44.1 or 44.2, or
- (b) the assessment, reassessment or additional assessment is made before the day that is 3 years after the end of the normal reassessment period for the corporation in respect of the year and
 - (i) is required pursuant to section 44 or would be so required if the corporation had claimed an amount by filing the prescribed form referred to in that section on or before the day referred to in that section,
 - (ii) is made as a consequence of the assessment or reassessment pursuant to this clause or section 44 of tax payable by another taxpayer,
 - (iii) is made as a consequence of a transaction involving the corporation and a non-resident person with whom the corporation was not dealing at arm's length,
 - (iv) is made as a consequence of a payment or reimbursement of any income or profits tax to

assess tax, interest or penalties or determine the entitlement to and the amount, if any, of any refundable tax credits, or

- (C) has failed to comply with section 36.2,*
- (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).

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

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

or by the government of a country other than Canada or a government of a state, province or other political subdivision of any such country, or

- (v) is made as a consequence of a reduction under subsection 66(12.73) of the federal Act, as it applies for the purposes of this Act, of an amount purported to be renounced under section 66 of the federal Act.

(c) in subsection (1.01) by striking out “subsection (1)(d)(i)(B)(II)” wherever it occurs and substituting “subsection (1)(a)(iii)”;

(d) by adding the following after subsection (1.01):

(1.02) Notwithstanding subsections (1) and (2), an assessment, reassessment or additional assessment to which subsection (1)(a) or (b) applies in respect of a corporation for a taxation year may be made after the corporation’s normal reassessment period in respect of the year to the extent that, but only to the extent that, it can reasonably be regarded as relating to,

- (a) where subsection (1)(a) applies to the assessment, reassessment or additional assessment,
 - (i) any misrepresentation made by the corporation or a person who filed the corporation’s return of income for the year that is attributable to neglect, carelessness or wilful default or any fraud committed by the corporation or that person in filing the return or supplying any information under this Act, or
 - (ii) a matter specified in a waiver filed with the Provincial Treasurer in respect of the year,

and

- (b) where subsection (1)(b) applies to the assessment, reassessment or additional assessment,
 - (i) the assessment, reassessment or additional assessment to which subsection (1)(b)(i) applies,
 - (ii) the assessment or reassessment referred to in subsection (1)(b)(ii),

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

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

(1.2) Notwithstanding subsection (1), 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

- (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.

(1.3) For the purposes of this section, where a corporation did not file a return for a taxation year because of section 36(1.1)(b) or (c), a notice of an original assessment or notification that no tax is payable for the year under this Act is deemed to be mailed to the corporation on the day of mailing under Part I of the federal Act by the Minister of National Revenue of a notice of an original assessment or notification that no tax is payable for that year.

(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

- (iii) the transaction referred to in subsection (1)(b)(iii),
- (iv) the payment or reimbursement referred to in subsection (1)(b)(iv), or
- (v) the reduction referred to in subsection (1)(b)(v).

(e) by repealing subsection (1.1) and substituting the following:

(1.1) In subsections (1.2), (1.21) and (2), “assessment action” means

- (a) an assessment, reassessment or additional assessment of tax, interest or penalties,
- (b) a determination or redetermination of a loss,
- (c) a confirmation of an assessment, reassessment or additional assessment of tax, interest or penalties or of a determination or redetermination of a loss, or
- (d) a notification that no tax is payable

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

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

(2) There shall not be included in computing the income of a corporation for a taxation year, for the purpose of an assessment, reassessment or additional assessment made under this Act after the corporation’s normal reassessment period in respect of the year,

- (a) any amount that was not included in computing the corporation’s income for the purpose of an assessment, reassessment or additional assessment made under this Act before the end of the period,
- (b) any amount that the corporation establishes cannot be reasonably regarded as relating to an assessment action, or
- (c) any amount that the corporation establishes cannot be reasonably regarded as an error that was

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 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.*

(3) Where the Provincial Treasurer would, but for this subsection, be entitled to reassess, make an additional assessment, assess tax, interest or penalties or determine the entitlement to and the amount, if any, of a corporation's refundable tax credit by virtue only of the filing of a waiver under subsection (1)(d)(i)(B), the Provincial Treasurer may not make that reassessment, additional assessment, assessment or determination after the day that is 6 months after the date on which a notice of revocation of the waiver in the prescribed form is filed.

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

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

corrected by the filing of an amended return under section 36.2(2).

- (g) in subsection (3) by striking out “subsection (1)(d)(i)(B)” and substituting “subsection (1)(a)(ii) or (iii)”;**
- (h) in subsection (3.1)(b) by striking out “or the royalty tax credit gas supplement”;**
- (i) in subsection (4) by striking out “subsection 67.5(1) of the federal Act as it is” and substituting “subsections 67.5(1) and 69(11) and section 143.2 of the federal Act as they are”;**
- (j) by adding the following after subsection (6):**

(7) Where, at any particular time as part of a series of transactions or events a corporation disposes of property after July 10, 1997 and before the coming into force of sections 14.1, 14.2 and 16.1 and a subsequent disposition of that property is made, or arrangements for the subsequent disposition of that property are made, before the day that is 3 years after the particular time, and the result of the series of transactions or events is that the aggregate amount of income arising from the disposition of that property by the corporation and from any subsequent disposition of that property by a subsequent owner included by the corporation and any subsequent owner in the computation of income for the purposes of the federal Act exceeds the aggregate amount of income included by the corporation and any subsequent owner in the computation of income in all the provinces, the Provincial Treasurer may assess or reassess tax of the corporation on the excess for the taxation year in which the corporation disposed of the property.

(8) Where subsection (7) applies and the property disposed of by the corporation is depreciable property, the Provincial Treasurer may assess or reassess the corporation

- (a) for the taxation year in which it disposed of the property on the basis that the proceeds of disposition in the calculation of undepreciated capital cost to the corporation of the prescribed class, to which the property was a part, is deemed for the purposes of this Act to equal the proceeds of disposition of the property for the purposes of the federal Act, if the proceeds of disposition for the purposes of the

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

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

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

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

(5) Notwithstanding subsections (1), (2) and (3), if the result of an assessment or a decision on an appeal is to change a particular balance of a corporation for a particular taxation year, the Provincial Treasurer may or, if the corporation so requests in writing, shall, before the later of the expiration of the normal reassessment period in respect of a subsequent taxation year and the end of the day that is one year after the day on which all rights of objection and appeal expire or are determined in respect of the particular year, reassess the tax, interest or penalties payable, or redetermine an amount deemed to have been paid or to have become payable under this Act by the corporation in respect of the subsequent taxation year, but only to the extent that the reassessment or redetermination can reasonably be considered to relate to the change in the particular balance of the corporation for the particular year.

(6) For the purposes of subsection (5), a "balance" of a corporation for a taxation year is the income, taxable income, taxable income earned in Canada, amount taxable in Alberta or any loss of the corporation for the year or the tax or other amount payable by, any amount refundable to or any amount deemed to have been paid or to have become payable by, the corporation for the year.

federal Act exceed the proceeds of disposition for the purposes of this Act, and

- (b) for any subsequent taxation year to the extent that the assessment or reassessment is consequential to the application of clause (a).

(9) Where, at any particular time as part of a series of transactions or events a partnership, at least one member of which is a corporation, disposes of property after July 10, 1997 and before the coming into force of sections 14.1, 14.2 and 16.1 and a subsequent disposition of that property is made, or arrangements for the subsequent disposition of that property are made, before the day that is 3 years after the particular time and the result of the series of transactions or events is that the aggregate amount of income, arising from the disposition of that property by the partnership and from any subsequent disposition of that property by a subsequent owner, included by the corporation to which this Act applies that is a member of the partnership and any subsequent owner in the computation of income for the purposes of the federal Act exceeds the aggregate amount of income included by the corporation and any subsequent owner in the computation of income in all the provinces, the Provincial Treasurer may assess or reassess tax on the corporation on the excess for the taxation year of the corporation which includes the fiscal period in which the partnership disposed of the property.

(10) Where subsection (9) applies and the property disposed of by the partnership is depreciable property, the Provincial Treasurer may assess or reassess the corporation to which this Act applies that is a member of the partnership

- (a) for the taxation year which includes the fiscal period in which the partnership disposed of the property on the basis that the proceeds of disposition in the calculation of undepreciated capital cost to the partnership of the prescribed class, to which the property was a part, is deemed for the purposes of this Act to equal the proceeds of disposition for the purposes of the federal Act, if the proceeds of disposition for the purposes of the federal Act exceed proceeds of disposition for the purposes of this Act, and
- (b) for any subsequent taxation year to the extent that the assessment or reassessment is consequential to the application of clause (a).

(2) Subsection (1)(a), (c), (f) and (g) apply after April 27, 1989.

(3) Subsection (1)(b) applies after April 27, 1989, except in respect of section 43(1)(b)(v), which applies only to the 1996 and subsequent taxation years.

(4) Subsection (1)(d) applies after April 27, 1989, except in respect of section 43(1.02)(b)(v), which applies only to the 1996 and subsequent taxation years.

(5) Subsection (1)(i), with respect to subsection 69(11) of the federal Act, applies to each disposition that is part of a series of transactions or events that begins after April 26, 1995, other than a disposition that occurred before 1996 to a person who was obliged on that day to acquire the property under the terms of an agreement in writing entered into on or before that day, and for the purpose of this subsection, a person is considered not to be obliged to acquire property where the person can be excused from the obligation if there is a change to this Act or the federal Act or if there is an adverse assessment under this Act or the federal Act.

(6) Subsection (1)(i), with respect to section 143.2, applies to the same extent as provided in section 34.02(6) to (11) of the *Alberta Corporate Tax Act*.

28 The following is added after section 44:

Reassessment
re: election on
proceeds

44.1 Where a corporation has filed for a particular taxation year the return required by section 36 and the proceeds of disposition of property are subsequently reduced as a result of a valid election filed in accordance with section 14.1(3), 14.2(3) or 16.1(3), the Provincial Treasurer shall reassess the corporation's tax for any relevant taxation year in order to take into account the elected amount.

Reassessment
re: excessive
capital cost
allowance

44.2 Where a corporation has filed for a particular taxation year the return required by section 36 and the capital cost allowance claimed by the corporation, or by the partnership of which the corporation is a member, is excessive as a result of a valid election filed in accordance with section 14.1(3), 14.2(3) or 16.1(3), the Provincial Treasurer shall reassess the corporation's tax for any relevant taxation year in order to take into account the elected amount.

28 Reassessment re: election on proceeds of disposition of property.

29(1) Section 47(2)(b) is repealed and the following is substituted:

- (b) shall, with all due dispatch, make the refund referred to in clause (a) after mailing the notice of assessment if application for it is made in writing by the corporation within the period within which the Provincial Treasurer would be allowed, under section 43(1) read without reference to clause (a) or under section 43(1.2), to assess tax payable under this Act by the taxpayer for the year.

(2) Subsection (1) applies after April 27, 1989.

30(1) Section 48 is amended

(a) by repealing subsection (1.1) and substituting the following:

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

- (a) under section 41(1.1), (1.11) or (8), 43(1)(b)(i), (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 applies 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 but only to the extent that the reasons for the objection can reasonably be regarded

29 Section 47(2) presently reads:

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

- (a) may, on or after mailing the notice of assessment for the taxation year, refund without application for the refund any overpayment for the year, and*
- (b) if the corporation makes an application in writing under circumstances in which section 43(1)(d)(ii) or (iii) or (1.2) applies within the periods referred to in section 43(1)(d)(ii) or (iii) or (1.2), as the case may be, shall, with all due dispatch, make the refund after mailing the notice of reassessment.*

30 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) or (1.11), 43(1)(d)(ii)(A), (1.2), (3.1), (3.3), (4) or (5), 44 or 47(4.4) or in accordance with an order of a court vacating, varying or restoring the assessment or referring the assessment back to the Provincial Treasurer for reconsideration and reassessment,*
- (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.

(6) No reassessment made by the Provincial Treasurer pursuant to subsection (4)(b) is invalid by reason only of not having been made within the periods referred to in section 43(1)(d)(ii) or (iii) or (1.2),

- (d) where the assessment or determination was made under section 41(8), as relating to any matter or conclusion specified in section 41(8)(a), (b) or (c), and
- (e) in any other case, as relating to any matter that gave rise to the assessment or determination

that was not conclusively determined by the court, and this subsection is not to be read or construed as limiting the right of the corporation to object to an assessment or a determination issued or made before that time.

(b) by repealing subsection (6) and substituting the following:

(6) The limitations imposed under section 43(1) and (1.02) do not apply to a reassessment made under subsection (4).

(2) Subsection (1)(a) applies in respect of assessments and determinations made after June 18, 1998.

(3) Subsection (1)(b) applies after April 27, 1989.

31(1) Section 49 is repealed and the following is substituted:

Legal
representatives

49(1) For the purposes of this Act, where a person is a legal representative of a corporation at any time,

- (a) the legal representative is jointly and severally liable with the corporation
 - (i) to pay each amount that is payable under this Act by the corporation at or before that time and that remains unpaid, to the extent that the legal representative is at that time in possession or control, in the capacity of legal representative, of property that belongs or belonged to, or that is or was held for the benefit of, the corporation, and
 - (ii) to perform any obligation or duty imposed under this Act on the corporation at or before that time and that remains outstanding, to the extent that the obligation or duty can reasonably be considered to relate to the responsibilities of the legal representative acting in that capacity,

as the case may be, under circumstances in which section 43(1)(d)(ii) or (iii) or (1.2) applies.

31 Section 49 presently reads:

49(1) Every person, other than a trustee in bankruptcy, who is an assignee, liquidator, administrator, receiver, receiver-manager or any other like person, in this section referred to as the “responsible representative”, administering, winding up, controlling or otherwise dealing with a property or business of a corporation, before distributing to 1 or more persons any property over which he has control in his capacity as the responsible representative, shall obtain a certificate from the Provincial Treasurer certifying that all amounts

(a) for which the corporation is liable under this Act in respect of the taxation year in which the distribution is made, or any preceding taxation year, and

(b) for the payment of which the responsible representative is or can reasonably be expected to become liable in his capacity as the responsible representative

have been paid or that security for the payment of the amounts has been accepted by the Provincial Treasurer.

(2) If a responsible representative distributes to 1 or more persons property over which he has control in his capacity as the responsible representative without obtaining a certificate under subsection (1) in respect of the amounts referred to in that subsection, the responsible

and

- (b) any action or proceeding in respect of the corporation taken under this Act at or after that time by the Provincial Treasurer may be so taken in the name of the legal representative acting in that capacity and, when so taken, has the same effect as if it had been taken directly against the corporation and, if the corporation no longer exists, as if the corporation continued to exist.

(2) Every legal representative (other than a trustee in bankruptcy) of a corporation shall, before distributing to one or more persons any property in the possession or control of the legal representative acting in that capacity, obtain a certificate from the Provincial Treasurer by applying for one in the prescribed form, certifying that all amounts

- (a) for which the corporation is or can reasonably be expected to become liable under this Act at or before the time the distribution is made, and
- (b) for the payment of which the legal representative is or can reasonably be expected to become liable in that capacity as the legal representative

have been paid or that security for the payment of the amounts has been accepted by the Provincial Treasurer.

(3) Where a legal representative (other than a trustee in bankruptcy) of a corporation distributes to one or more persons property in the possession or control of the legal representative acting in that capacity without obtaining a certificate under subsection (2) in respect of the amounts referred to in that subsection, the legal representative is personally liable for the payment of those amounts to the extent of the value of the property distributed, and the Provincial Treasurer may at any time assess the legal representative in respect of any amount payable because of this subsection, and the provisions of this Act apply, with any modifications that the circumstances require, to an assessment made under this subsection as though it had been made under section 41 or 43.

(4) For the purposes of subsections (2) and (3), an appropriation by a legal representative of a corporation of property in the possession or control of the legal representative acting in that capacity is deemed to be a distribution of the property to a person.

representative is personally liable for the payment of those amounts to the extent of the value of the property distributed and the Provincial Treasurer may assess the responsible representative for the amounts in the same manner and with the same effect as if it were an assessment of the corporation made under section 41.

(2) This section is deemed to have come into force on June 18, 1998.

32(1) Section 49.1 is amended

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

(2.1) Where a corporation or a partnership of which a corporation subject to tax under this Act is a member (referred to in this subsection as the “corporate partner”) is deemed by subsection 69(11) of the federal Act, as it applies for the purposes of this Act, to have disposed of a property at any time for proceeds of disposition equal to its fair market value at the time, the person referred to in that subsection to whom a benefit described in that subsection was available in respect of a subsequent disposition of the property or property substituted for the property is jointly and severally liable with the corporation or the corporate partner to pay a part of the corporation’s or the corporate partner’s liabilities under this Act in respect of each taxation year equal to the amount determined by the formula

$$A - B$$

where

A is the total of amounts payable under this Act by the corporation or the corporate partner in respect of the year, and

B is the amount that would, if the corporation or partnership were not deemed by subsection 69(11) of the federal Act, as it applies for the purposes of this Act, to have disposed of the property, be determined for A in respect of the corporation or the corporate partner in respect of the year,

but nothing under this subsection is deemed to limit the liability of the corporation or the corporate partner under any other provision of this Act.

(b) in subsection (3) by striking out “by the person”;

(c) by repealing subsection (4) and substituting the following:

32 Section 49.1 presently reads:

49.1(1) If property is transferred at any time by a corporation to a person with whom the corporation does not deal at arm's length at that time and the corporation is not entitled by virtue of the application of subsection 61.3(3) of the federal Act to deduct an amount under this Act by virtue of the application of section 61.3 of the federal Act in computing its income for a taxation year because of the transfer or because of the transfer and one or more other transactions, the person is jointly and severally liable with the corporation to pay an amount of the corporation's tax under this Act for the year equal to the amount, if any, by which the fair market value of the property at that time exceeds the fair market value at that time of the consideration given for the property, but nothing in this subsection limits the liability of the corporation under any other provisions of this Act.

(2) If

- (a) property is transferred at any time from a corporation (in this subsection referred to as the "transferor") to another person (in this subsection referred to as the "transferee") with whom the transferor does not deal at arm's length,*
- (b) the transferor is liable because of subsection (1) or this subsection to pay an amount of the tax of another person (in this subsection referred to as the "debtor") under this Act, and*
- (c) it can reasonably be considered that one of the reasons of the transfer would, but for this subsection, be to prevent the enforcement of this section,*

the transferee is jointly and severally liable with the transferor and the debtor to pay an amount of the debtor's tax under this Act equal to the lesser of the amount of such tax that the transferor was liable to pay at that time and the amount, if any, by which the fair market value of the property at that time exceeds the fair market value at the time of the consideration given for the property, but nothing in this subsection limits the liability of the debtor or the transferor under any provision of this Act.

(3) The Provincial Treasurer may at any time assess a person in respect of any amount payable by the person because of this section, and the provisions of this Part apply, with such modifications as the

(4) Where a person has become jointly and severally liable with a corporation under this section in respect of part or all of a liability under this Act of the corporation,

- (a) a payment by the person on account of that person's liability discharges the joint liability to the extent of the payment, but
- (b) a payment by the corporation on account of that corporation's liability discharges the person's liability only to the extent that the payment operates to reduce the corporation's liability to an amount less than the amount in respect of which the person is, by this section, made jointly and severally liable.

(2) Subsection (1)(a) applies in respect of dispositions that are deemed by subsection 69(11) of the federal Act to occur after April 26, 1995.

(3) Subsection (1)(b) and (c) are deemed to have come into force on June 18, 1998.

33(1) Section 50(1.1) is amended

- (a) by striking out “interest or penalties” and substituting “interest, penalties or other amounts”;**
- (b) in clause (a) by striking out “41(1.1) or (1.11), 43(1)(d)(ii)(A), (1.2), (3.1), (3.3), (4) or (5), 44 or 47(4.4)” and substituting “41(1.1), (1.11) or (8), 43(1)(b)(i), (1.2), (3.1), (3.3), (4) or (5), 44, 47(4.4) or 72.1(8)”;**
- (c) by striking out the words after clause (c) and substituting the following:**

the corporation may appeal to the court within the time limit specified in subsection (1) but only to the extent that the reasons for the appeal can reasonably be regarded

- (d) where the assessment or determination was made under section 41(8), as relating to any matter or conclusion specified in section 41(8)(a), (b) or (c), and
- (e) in any other case, as relating to any matter that gave rise to the assessment or determination

circumstances require, in respect of an assessment made under this section as though it had been made under section 41 or 43.

(4) If a corporation and another person have, because of subsection (1) or (2), become jointly and severally liable in respect of part or all of a liability of the corporation under this Act,

- (a) a payment by the other person on account of that person's liability shall to the extent of the payment discharge the joint liability, and*
- (b) a payment by the corporation on account of the corporation's liability discharges the other person's liability only to the extent that the payment operates to reduce the corporation's liability to an amount less than the amount in respect of which the other person was, by subsection (1) or (2), as the case may be, made liable.*

33 Section 50(1.1) presently reads:

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

- (a) under section 41(1.1) or (1.11), 43(1)(d)(ii)(A), (1.2), (3.1), (3.3), (4) or (5), 44 or 47(4.4) or in accordance with an order of a court vacating, varying or restoring the assessment or referring the assessment back to the Provincial Treasurer for reconsideration and reassessment,*
- (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*
- (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.

that was not conclusively determined by the court, and this subsection is not to be read or construed as limiting the right of the corporation to appeal from an assessment or a determination issued or made before that time.

(2) Subsection (1) applies in respect of determinations made after June 18, 1998.

34 Section 60.1(1) is amended by adding “other than an amount assessed under section 50(1.2),” before “the Provincial Treasurer”.

35 Section 61 is amended by adding the following after subsection (3):

(3.1) Every person required by this section to keep records who does so electronically shall retain them in an electronically readable format for the retention period referred to in subsection (3).

(3.2) The Provincial Treasurer may, on such terms and conditions as are acceptable to the Provincial Treasurer, exempt a person or a class of persons from the requirement in subsection (3.1).

36(1) Section 62(b) is repealed and the following is substituted:

(b) “documents” includes money, securities and records;

(2) This section is deemed to have come into force on June 18, 1998.

34 Section 60.1(1) presently reads:

60.1(1) If a corporation is liable for the payment of an amount assessed under this Act, in this subsection referred to as the “unpaid amount”, the Provincial Treasurer shall not, for the purpose of collecting the unpaid amount,

(a) commence legal proceedings in the court,

(b) certify the unpaid amount under section 58, or

(c) require a person to make a payment under section 60,

until after the day that is 90 days after the day of the mailing of the notice of assessment.

35 Section 61(3) presently reads:

(3) Every corporation required by this section to keep records and books of account shall retain

(a) the records and books of account in respect of which a period is prescribed, together with every account and voucher necessary to verify the information in any record or book of account, for the prescribed period, and

(b) all records and books of account other than those referred to in clause (a), together with every account and voucher necessary to verify the information contained in any record or book of account, until the expiration of 6 years from the end of the last taxation year to which the records and books of account relate.

36 Section 62 presently reads in part:

62 In sections 63 to 65,

(a) “authorized person” means a person authorized by the Provincial Treasurer for the purposes of sections 63 to 65;

37 Section 64(1) is amended by adding “, by facsimile” after “personally”.

38(1) Section 67 is repealed and the following is substituted:

Copies of
seized
documents

67(1) If any document has been seized, inspected, examined, audited or provided under sections 63 to 65, the person by whom it is seized, inspected, examined or audited or to whom it is provided or any officer of the Treasury Department may make, or cause to be made, one or more copies of it and, in the case of an electronic document, make or cause to be made a print-out of the electronic document.

(2) A document purporting to be certified by the Provincial Treasurer, or a person authorized by the Provincial Treasurer, to be a copy of the document, or to be a print-out of an electronic document, made pursuant to this section is evidence of the nature and contents of the original document and has the same probative force as the original document would have had if it had been proven in the ordinary way.

(2) This section applies to copies and print-outs made after June 18, 1998.

39 Section 75 is amended

(a) in subsection (1)

(i) by repealing clause (d);

(ii) by adding “or” at the end of clause (e) and by repealing clause (f);

- (b) “documents” includes money, securities and any of the following, whether computerized or not: books, records, letters, telegrams, vouchers, invoices, accounts and statements, financial or otherwise;

37 Section 64(1) presently reads:

64(1) Notwithstanding any other provision of this Act, the Provincial Treasurer may, subject to subsection (4), for any purpose related to the administration of this Act, by notice served personally or by registered or certified mail, demand that a corporation or any other person provide or produce, within the reasonable period of time stipulated in the notice,

- (a) any information or additional information, including a return under section 36 or a supplementary return, or*
- (b) any document.*

38 Section 67 presently reads:

67(1) If any document, book, record, paper or other document has been seized, examined or produced under sections 63 to 65, the person by whom it is seized or examined or to whom it is produced or any officer of the Treasury Department may make, or cause to be made, one or more copies.

(2) A document purporting to be certified by the Provincial Treasurer or a person authorized by the Provincial Treasurer to be a copy made pursuant to this section shall be admitted in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

39 Section 75 presently reads:

75(1) A person who

- (a) makes or participates in, assents to or acquiesces in the making of false or deceptive statements in a return, certificate, statement, application or answer filed or made as required by or under this Act or a regulation,*

(iii) by adding “or” at the end of clause (h) and by repealing clause (i);

(iv) in clause (j) by striking out “or (i) or both”;

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

(1.1) Every person that obtains or claims a refund or credit under this Act to which a corporation or any other person is not entitled or obtains or claims a refund or credit under this Act in an amount that is greater than the amount to which the corporation or other person is entitled

- (a) by making, or participating in, assenting to or acquiescing in the making of, a false or deceptive statement in a return, certificate, statement or answer filed or made under this Act or a regulation,
- (b) by destroying, altering, mutilating, hiding or otherwise disposing of a record or book of account of the corporation or other person,
- (c) by making, or assenting to or acquiescing in the making of, a false or deceptive entry in a record or book of account of the corporation or other person,
- (d) by omitting, or assenting to or acquiescing in an omission, to enter a material particular in a record or book of account of the corporation or other person,
- (e) wilfully in any manner, or
- (f) by conspiring with any person to commit any offence under this subsection,

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

- (g) a fine of not more than 200% of the amount by which the amount of the refund or credit obtained or claimed exceeds the amount, if any, of the refund or credit to which the corporation or other person is entitled, or
- (h) both the fine described in clause (g) and imprisonment for a term not exceeding 2 years.

(c) in subsection (2) by striking out “subsection (1)(e) or (f)” and substituting “this section”.

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

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

- (h) to a fine of not more than 200% of the tax sought to be evaded,*
- (i) to a fine of not more than 200% of the difference between the amount of the refundable tax credit claimed and the amount of the refundable tax credit to which the corporation is entitled, or*
- (j) to a fine under clause (h) or (i) or both and to imprisonment for a term of not more than 2 years.*

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

40 Section 82(4) is repealed and the following is substituted:

(4) An affidavit of an officer of the Treasury Department setting out that the officer has charge of the appropriate records and that a document annexed to the affidavit is a document or true copy of a document or a print-out of an electronic document made by or on behalf of the Provincial Treasurer or some person exercising the powers of the Provincial Treasurer or by or on behalf of a corporation is evidence of the nature and contents of the document.

41 Section 83 is amended

- (a) **by striking out** “to be an order, direction, demand notice, certificate, inquiry, decision, assessment or discharge of mortgage and”;
- (b) **by striking out** “shall be deemed to be a document” **and substituting** “is deemed to have been”;
- (c) **by striking out** “some person” **and substituting** “a person”.

42 Section 84(2) is amended by adding “or determination” after “assessment” wherever it occurs.

43 Section 92(1.1) is amended by adding “36.2,” after “and (4),”.

44(1) Section 95(1) is amended by striking out “ $ATC = (TC + CTP) \times SP$ ” and substituting “ $ATC = TC + (CTP \times SP)$ ”.

(2) This section applies to taxation years commencing on or after November 1, 1999.

40 Section 82(4) presently reads:

(4) An affidavit of an officer of the Treasury Department setting out that he has charge of the appropriate records and that a document annexed to the affidavit is a document or true copy of a document made by or on behalf of the Provincial Treasurer or some person exercising the powers of the Provincial Treasurer or by or on behalf of a taxpayer shall be received as prima facie proof of the nature and contents of the document and shall be admitted in evidence and has the same probative force as the original document would have if it had been proven in the ordinary way.

41 Section 83 presently reads:

83 A document purporting to be an order, direction, demand notice, certificate, inquiry, decision, assessment or discharge of mortgage and to have been executed under or in the course of administration or enforcement of this Act over the name in writing of the Provincial Treasurer or an officer authorized by the Provincial Treasurer to exercise powers or perform duties of the Provincial Treasurer under this Act shall be deemed to be a document signed, made and issued by the Provincial Treasurer or the officer unless called in question by the Provincial Treasurer or by some person acting for him or Her Majesty.

42 Section 84(2) presently reads:

(2) When a notice of an assessment has been sent by the Provincial Treasurer as required by this Act, the assessment shall be deemed to have been made on the day of mailing of the notice of the assessment.

43 Section 92(1.1) presently reads:

(1.1) Subject to subsection (2), sections 1(2)(g) and (i), 1(3) and (4), 37.1, 39(6), 41(1), (1.11), (1.111) and (1.12), 42, 43, 43.1, 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.

44 Section 95(1) presently reads:

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:

45 Section 105 is amended

(a) in subsection (2) by adding “36.2,” after “and (10),”;

(b) by repealing subsection (3)(a.1).

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

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;

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.

45 Section 105 presently reads:

105(1) Subject to subsection (2), sections 1 to 85 and Parts 9 and 11 do not apply for the purposes of this Part.

(2) Subject to subsection (3), sections 1(1), 1(2)(c), (d), (e), (f), (g), (i), 1(3) and (4), 2(1) to (3), (8) and (10), 37.1, 39(6), 41(1), (1.11), (1.111) and (1.12), 42, 43, 43.1, 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.

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

(a) section 39(6) shall be read as if clause (a) read as follows:

(a) in the case of a penalty payable by reason of section 103, from the day on or before which the corporation's return under section 102 was required to be filed to the day of payment,

(a.1) section 43 shall be read as if subsections (1)(d)(ii) and (1.2) of that section were struck out,

(b) a liability of a corporation that may be reduced by the application of an amount to the liability by the Provincial Treasurer pursuant to the application of section 47 includes any liability under this Act,

(c) section 47(4) applies as if clause (a.1) came into force on April 1, 1990, and

(d) section 73.1 applies with respect to amounts payable under section 104(2) after March 31, 1990.

46 Section 106 is amended

- (a) by repealing subsection (1)(e);**
- (b) in subsection (5) by striking out “or the royalty credit gas supplement” wherever it occurs and by striking out “or a royalty credit gas supplement”.**

47 The following is added after section 108:

Elimination of
royalty credit

108.1 An individual is not entitled to a royalty credit in respect of Alberta crown royalty incurred after December 31, 2000.

48 Section 109 is repealed.

46 Section 106 presently reads in part:

106(1) In this Part,

(e) "royalty credit gas supplement" means a royalty credit gas supplement to which an individual is entitled under this Part;

(5) If, in the opinion of the Provincial Treasurer, an individual and another individual or a corporation have at any time in a taxation year entered into one or more sales, exchanges, declarations of trust or other transactions that

(a) lack any substantial business purpose, other than increasing the aggregate amount of the royalty credit or the royalty credit gas supplement that may be claimed, or

(b) artificially increase the royalty credit or the royalty credit gas supplement that may be claimed,

the Provincial Treasurer may direct that the individual is not entitled to a royalty credit or a royalty credit gas supplement for the taxation year or subsequent taxation years.

47 Elimination of royalty credit for individuals and trusts.

48 Section 109 presently reads:

109 Subject to section 110, an individual is entitled to a royalty credit gas supplement for a taxation year equal to the amount obtained when the weighted supplemental rate is multiplied by that proportion of

(a) the amount by which the lesser of

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

(ii) his crown royalty shelter for the year

exceeds

(b) his Alberta crown royalty for the year attributable to the production of petroleum and natural gas liquids

49 Section 110 is amended

- (a) in subsection (1) by striking out** “or a royalty credit gas supplement”;
- (b) in subsection (2) by striking out** “or royalty credit gas supplement”.

50 Section 116(1) is amended by striking out “or royalty credit gas supplement”.

51 Section 117 is amended by striking out “or royalty credit gas supplement” **wherever it occurs.**

that the number of days in the taxation year in 1991 is of the number of days in the taxation year.

49 Section 110 presently reads:

110(1) An individual is entitled to a royalty credit or a royalty credit gas supplement in respect of a taxation year only if he files an application for the credit in the prescribed form within 3 years from the end of that taxation year.

(2) An individual becomes entitled to receive the amount of the royalty credit or royalty credit gas supplement on the date the application is filed under subsection (1) and is deemed to have paid that amount on account of any liability under this Act at that time.

50 Section 116(1) presently reads:

116(1) If, at any time, the Provincial Treasurer determines that a royalty credit or royalty credit gas supplement has been paid to an individual for a taxation year in excess of the amount to which he was entitled,

- (a) the excess shall be deemed to be an amount that became payable by the individual on the date on which the amount was paid, and*
- (b) the individual shall pay interest at the prescribed rate on the excess from the date it became payable to the date of payment.*

51 Section 117 presently reads:

117 If, at any time, interest on a royalty credit or royalty credit gas supplement has been paid to an individual or applied to his liability and it is determined at a subsequent time that the royalty credit or royalty credit gas supplement to which he was entitled was less than the amount on which interest was paid or applied, the following rules apply:

- (a) the amount by which the interest that has been paid or applied exceeds the interest, if any, computed in respect of the amount that is determined at the subsequent time to be the actual royalty credit or royalty credit gas supplement shall be deemed to be an amount, in this section referred to as "the amount payable", that became payable under this Part by the individual at the particular time;*
- (b) the individual shall pay to the Provincial Treasurer interest at the prescribed rate on the amount payable computed from the particular time to the date of payment;*

52 Section 118(1) is amended

- (a) by striking out** “or a royalty credit gas supplement”;
- (b) by striking out** “or royalty credit gas supplement”.

53 Section 119(1), (2), (2.1), (3) and (4) are amended by striking out “or royalty credit gas supplement” wherever it occurs.

- (c) *the Provincial Treasurer may, at any time, assess the individual in respect of the amount payable and, if the Provincial Treasurer makes that assessment, this Act applies in respect of the assessment as if it had been made under section 119.*

52 Section 118 presently reads:

118(1) The Provincial Treasurer shall examine an application for a royalty credit or a royalty credit gas supplement for a taxation year and assess the interest and penalties payable and shall determine the amount of the royalty credit or royalty credit gas supplement, if any, to which the individual is entitled for the year.

(2) After an application is examined, the Provincial Treasurer shall send a notice of determination to the individual who filed the application.

53 Section 119 presently reads in part:

119(1) The Provincial Treasurer, at any time, may assess interest or penalties under this Part or determine the entitlement to and the amount, if any, of an individual's royalty credit or royalty credit gas supplement.

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

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

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

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

or

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

(3) Notwithstanding that more than 3 years has passed since the date of mailing a notice of an original assessment of interest or penalties payable by an individual for a taxation year, or of a determination of the entitlement to a royalty credit or royalty credit gas supplement for the year, if a collection agreement is in effect under the Alberta Income Tax Act and the amounts referred to in section 106(1)(a) of this Act for the year are revised on a reassessment under the federal Act for the year, the Provincial

54 Section 120 is amended

- (a) in subsection (1) by striking out “and royalty credit gas supplement”;**
- (b) in subsection (2) by striking out “or royalty credit gas supplement”.**

55 Section 121(3)(c) is amended by striking out “or a royalty credit gas supplement, as the case requires”.

Treasurer, within 12 months of the reassessment under the federal Act,

- (a) may reassess or make additional assessments of interest or penalties under this Part, or*
- (b) may redetermine the amount of the royalty credit or royalty credit gas supplement, if any, to which the individual is entitled for the year.*

(4) If the Provincial Treasurer would, but for this subsection, be entitled to reassess or make an additional assessment of interest or penalties or redetermine the entitlement to and the amount, if any, of an individual's royalty credit or royalty credit gas supplement by virtue only of the filing of a waiver under subsection (2)(a)(ii), the Provincial Treasurer may not make that reassessment, additional assessment, assessment or redetermination after the date that is 6 months after the date on which a notice of revocation of the waiver in the prescribed form is filed.

54 Section 120 presently reads in part:

120(1) For the purposes of this section the "net royalty credit" of an individual for a taxation year is the amount, if any, by which his royalty credit and royalty credit gas supplement for the year exceed the aggregate of

- (a) the interest and penalties payable under this Part for the year, and*
- (b) the royalty credit instalments paid to the individual for the year less the aggregate of amounts paid by the individual under section 113 for the year.*

(2) If an application for a royalty credit or royalty credit gas supplement for a taxation year has been filed by an individual within 3 years from the end of that year, the Provincial Treasurer shall, on or after mailing a notice of determination for the year, refund to the individual his net royalty credit for the year.

55 Section 121 presently reads in part:

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

- (a) a reference to a corporation that is subject to this Act shall be read as a reference to an individual to which this Part applies,*
- (b) a reference to an assessment or reassessment shall be read as a reference to an assessment, reassessment, determination or redetermination under this Part, and*
- (c) a reference to a refundable tax credit shall be read as a reference to a royalty credit or a royalty credit gas supplement, as the case requires.*

56 In the following provisions “, 22.1” is struck out wherever it occurs:

section 18(1.1);
section 23(2);
section 24(2);
section 25(3).

56 Consequential.