

2001 BILL 14

First Session, 25th Legislature, 50 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 14

ALBERTA INCOME TAX AMENDMENT ACT, 2001

THE MINISTER OF FINANCE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 14

2001

ALBERTA INCOME TAX AMENDMENT ACT, 2001

(Assented to _____, 2001)

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

Amends RSA
1980 cA-31

1 The *Alberta Income Tax Act* is amended by this Act.

**2 Section 3(6), (6.1) and (7) are repealed and the following
is substituted:**

(6) An individual who was resident in Alberta on the last day of a calendar year and had income for the year that included income earned in a country other than Canada in respect of which non-business-income tax was paid by the individual to the government of a country other than Canada may deduct from the tax payable by the individual under this Act for that taxation year the amount, if any, equal to the lesser of

(a) the amount, if any, by which the non-business-income tax paid by the individual for the year to the government of the country other than Canada exceeds,

(i) where section 127.5 of the federal Act does not apply to the individual for the taxation year, all amounts claimed by the individual as deductions from tax under that Act for the year under subsection 126(1) or 180.1(1.1) of that Act, or

(ii) where section 127.5 of the federal Act applies to the individual for the year, the aggregate of

Explanatory Notes

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

2 Section 3 presently reads in part:

(6) If an individual resided in Alberta on the last day of a taxation year and had income for the year that included income earned in a country other than Canada in respect of which any non-business-income tax was paid by him to the government of a country other than Canada, he may deduct from the tax payable by him under this Act for that taxation year an amount equal to the lesser of

(a) the amount, if any, by which any non-business-income tax paid by him for the year to the government of that country exceeds the sum of

(i) the amount claimed for that year

(A) under subsection 126(1) of the federal Act as a deduction under that Act, or

(B) under section 127.5 of the federal Act in respect of that part of his special foreign tax credit that relates to the amount he would have claimed under subsection 126(1) of the federal Act if section 127.5 of the federal Act were not applicable to him,

(i.1) that proportion of the amount claimed for that year under subsection 180.1(1.1) of the federal Act that his foreign tax credit under subsection 126(1) of the

- (A) the individual's special foreign tax credit for the year determined under section 127.54 of that Act, and
- (B) the amount claimed by the individual as a deduction from tax under that Act for the year under subsection 180.1(1.1) of that Act,

and

- (b) that proportion of the tax otherwise payable under this Act for that taxation year that
 - (i) the aggregate of the individual's income from sources in that country, excluding any portion of the income that was deductible by the individual for the year under subparagraph 110(1)(f)(i) of the federal Act or in respect of which an amount was deducted by the individual under section 110.6 of the federal Act
 - (A) for that year, if section 114 of the federal Act is not applicable, or
 - (B) if section 114 of the federal Act is applicable, for the period or periods in the year referred to in paragraph (a) of that section,

on the assumption that

- (C) no businesses were carried on by the individual in that country,
- (D) no amount was deducted under subsection 91(5) of the federal Act in computing the individual's income for the year, and
- (E) if the individual deducted an amount under subsection 122.3(1) of the federal Act from the individual's tax otherwise payable under Part I of the federal Act, the individual's income from employment in that country was not from a source in that country to the extent of the lesser of the amounts determined in respect of the individual's income under paragraphs 122.3(1)(c) and (d) of the federal Act for the year,

federal Act is of his total deductions under section 126 of the federal Act,

- (ii) the amount claimed for that year under subsection 122.3(1) of the federal Act as a deduction under that Act, and*
- (iii) an amount equal to the product of the amount in subclause (ii) and the percentage in section 3.02 used in computing the tax payable under this Act for that year,*

and

(b) that proportion of the tax otherwise payable under this Act for that taxation year that

(i) the aggregate of the taxpayer's incomes from sources in that country, excluding any portion thereof that was deductible by him for the year under subparagraph 110(1)(f)(i) of the federal Act or in respect of which an amount was deducted by him under section 110.6 of the federal Act

(A) for that year, if section 114 of the federal Act is not applicable, or

(B) if section 114 of the federal Act is applicable, for the period or periods in the year referred to in paragraph (a) of that section

on the assumption that

(C) no businesses were carried on by him in that country,

(D) no amount was deducted under subsection 91(5) of the federal Act in computing his income for the year, and

(E) if he deducted an amount under subsection 122.3(1) of the federal Act from his tax otherwise payable under Part I of the federal Act, the taxpayer's income from employment in that country was not from a source in that country to the extent of the lesser of the amounts determined in respect of his income under paragraphs 122.3(1)(c) and (d) of the federal Act for the year,

is of

(ii) the amount, if any, by which

(A) if section 114 of the federal Act is not applicable to the taxpayer in respect of the year, the aggregate of his income for the year and the amounts, if any, included under subsection

is of

(ii) the amount, if any, by which

- (A) if section 114 of the federal Act is not applicable to the individual in respect of the year, the aggregate of the individual's income for the year and the amounts, if any, included under subsection 110.4(2) of the federal Act in computing the individual's taxable income under that Act for the year, or
- (B) if section 114 of the federal Act is applicable to the individual in respect of the year, the individual's income under that Act for the period or periods in the year referred to in paragraph (a) of that section,

exceeds

- (C) the aggregate of all amounts each of which is an amount
 - (I) deducted by the individual under paragraph 111(1)(b) or section 110.6 of the federal Act, or
 - (II) deductible by the individual under paragraph 110(1)(d), (d.1), (d.2), (d.3), (f) or (j) of the federal Act

for the year or in respect of the period or periods referred to in paragraph (B), as the case may be.

(6.1) For the purposes of subsection (6), "tax payable" and "tax otherwise payable" mean the amounts that would, but for sections 120.3, 121 and 122.3 of the federal Act, be the tax payable under this Act.

(7) For the purposes of subsection (6), the non-business-income tax paid by an individual to the government of a country other than Canada in respect of the individual's income for a year is the non-business-income tax that the individual paid to the government of that country as defined in subsection 126(7) of the federal Act for the purposes of that Act.

110.4(2) of the federal Act in computing his taxable income under that Act for the year, or

(B) if section 114 of the federal Act is applicable to the taxpayer in respect of the year, his income under that Act for the period or periods in the year referred to in paragraph (a) of that section,

exceeds

(C) the aggregate of all amounts each of which is an amount

(I) deducted by the taxpayer under paragraph 111(1)(b) or section 110.6 of the federal Act, or

(II) deductible by the taxpayer under paragraph 110(1)(d), (d.1), (d.2), (d.3), (f) or (j) of the federal Act

for the year or in respect of the period or periods referred to in paragraph (B), as the case may be.

(6.1) For the purposes of subsection (6), “tax payable” and “tax otherwise payable” mean the amount that would, but for sections 120.1, 121 and 122.3 of the federal Act, be the tax otherwise payable under this Act.

(7) For the purposes of subsection (6), the non-business-income tax paid by a taxpayer to the government of a country other than Canada in respect of his income for a year is the non-business-income tax paid by him to the government of that country as computed under paragraph 126(7)(c) of the federal Act for the purposes of that Act.

3 The following is added at the end of Part 1:

Alberta Energy Tax Refund

Energy Tax
Refund

14.1(1) In this section and sections 14.2 and 14.3,

- (a) "Director" means the Director of Maintenance Enforcement under the *Maintenance Enforcement Act*;
- (b) "eligible individual" means an individual, other than a trust or an individual referred to in subsection (2), who files or has filed a return of income for the 1999 taxation year before April 1, 2001, and
 - (i) who was at least 16 years of age on August 31, 2000 and was resident in Alberta on August 31, 2000, or
 - (ii) who is at least 16 years of age on April 1, 2001 and is resident in Alberta on April 1, 2001;
- (c) "overpayment" means an overpayment that an eligible individual is deemed to have made under subsection (3) or (4).

(2) An individual

- (a) who, on August 31, 2000, was confined to a prison or similar institution and was so confined for a period of 6 months, or for periods the total of which in the 12 months before September 1, 2000 exceeded 6 months, is not an eligible individual under subsection (1)(b)(i), or
- (b) who, on April 1, 2001, is confined to a prison or similar institution and was so confined for a period of 6 months, or for periods the total of which in the 12 months before April 1, 2001 exceeded 6 months, is not an eligible individual under subsection (1)(b)(ii).

(3) An eligible individual under subsection (1)(b)(i) is deemed to have made an overpayment of \$150 on account of the individual's liability under this Act for the taxation year 1999.

(4) An eligible individual under subsection (1)(b)(ii) is deemed to have made an overpayment of \$150 on account

3 Alberta energy tax refund.

of the individual's liability under this Act for the taxation year 1999.

(5) If an individual receives a refund under this section for which the individual is not eligible under this section, the individual shall repay the amount to the Minister of Revenue.

(6) The Lieutenant Governor in Council may make regulations

- (a) specifying additional provisions of the federal Act that apply, with or without modifications, in respect of an overpayment;
- (b) establishing rules to determine if an individual was resident in Alberta for the purposes of subsection (1)(b).

Debtor in
arrears

14.2(1) In this section, "debtor in arrears" means a debtor who, according to the records of the Director, has arrears owing with respect to a maintenance order filed under the *Maintenance Enforcement Act* with the Director.

(2) Notwithstanding this Act,

- (a) the refund of an overpayment under section 14.1(3) to an eligible individual who, as of a date determined by the Director, is a debtor in arrears, and
- (b) the refund of an overpayment under section 14.1(4) to an eligible individual who, as of a date determined by the Director, is a debtor in arrears

shall be paid to the Director, and payment of the refund to the Director is deemed to be a payment of the refund to the debtor in arrears.

(3) The Director must credit the refund of an overpayment paid to the Director under subsection (2)

- (a) first to any arrears outstanding of the debtor in arrears,
- (b) next to the current periodic payment of the debtor in arrears, and

(c) last to any other amount payable and outstanding of the debtor in arrears.

General

14.3(1) A refund of an overpayment and costs relating to the refund as determined in accordance with a collection agreement are payable from the taxes, interest, penalties and other amounts collected under this Act.

(2) Notwithstanding section 19, section 161 of the federal Act, as it applies to this Act, does not apply to a refund of an overpayment.

(3) Notwithstanding section 28, subsection 164(3) of the federal Act, as it applies to this Act, does not apply to a refund of an overpayment.

(4) Notwithstanding section 30, no appeal lies in respect of the determination of the eligibility of an individual for a refund of an overpayment.

(5) Notwithstanding anything in this Act, no assessment, determination or decision may be made on or after April 1, 2002 with respect to the eligibility of an individual for a refund of an overpayment.

4(1) Section 2 is deemed to have come into force on June 1, 1986.

(2) Section 3 is deemed to have come into force on November 1, 2000.

4 Coming into force.