

BILL 25

2002

ALBERTA CORPORATE TAX AMENDMENT ACT, 2002

(Assented to _____, 2002)

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

Amends RSA 2000 cA-15

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

2 Section 1 is amended

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

(b) in subsection (2)

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

(g.01) “Provincial Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;

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

(k) “taxable income earned in Canada” means a corporation’s taxable income earned in Canada determined in accordance with section 17.1, except that in no case may a corporation’s taxable income earned in Canada be less than nil.

(c) by repealing subsection (6).

3 Section 2(6) is amended by striking out “and 16.2” and substituting “, 16.2 and 34.011(2)”.

4(1) Section 5 is amended by adding the following after subsection (3):

(3.1) Notwithstanding subsections (2) and (3), a corporation not resident in Canada shall compute its taxable income earned in Canada in accordance with section 17.1.

(2) This section applies after June 27, 1999.

5 Section 8 is amended by adding the following after subsection (3):

(4) Subsection 27(2) of the federal Act does not apply for the purposes of this Act.

6(1) Section 14.1(1) and (2) are repealed and the following is substituted:

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 valid federal election has been made under subsection 85(1) of the federal Act in respect of the transfer of that property.

(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 to a corporation, the amount deemed to be the proceeds of disposition of the property to the corporation or individual 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.

(2) This section applies to transfers of property after May 30, 2001.

7(1) Section 14.2(1) and (2) are repealed and the following is substituted:

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 valid federal election has been made under subsection 85(2) of the federal Act in respect of the transfer of that property.

(2) Subject to subsection (3), where subsection 85(2) of the federal Act applies for the purposes of this Act in respect of the transfer of property to a corporation, 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.

(2) This section applies to transfers of property after May 30, 2001.

8(1) Section 14.3(1) and (2) are repealed.

(2) This section applies after May 30, 2001.

9(1) Section 16.1(1) and (2) are repealed and the following is substituted:

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 valid federal election has been made under subsection 97(2) of the federal Act in respect of the transfer of that property.

(2) Subject to subsection (3), where subsection 97(2) of the federal Act applies for the purposes of this Act in respect of the transfer of property to a partnership, 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 purposes of the federal Act is the amount to be deemed for the purposes of this Act.

(2) This section applies to transfers of property after May 30, 2001.

10(1) Section 16.2(1) and (2) are repealed.

(2) This section applies after May 30, 2001.

11(1) Section 17.1 is repealed and the following is substituted:

Taxable income of non-resident corporation

17.1(1) Sections 115, 115.1 and 115.2 of the federal Act apply for the purposes of determining the taxable income earned in Canada by a non-resident corporation.

(2) Subsection 115(1) of the federal Act shall be read as if the references to section 3 or any of its paragraphs in subsection 115(1) of the federal Act were references to section 6 of this Act or the corresponding clauses of section 6.

(2) This section applies after June 27, 1999.

12(1) Section 18 is amended

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

(4) Where the value of a gift has been determined under subsection 118.1(10) of the federal Act, the value of the gift as determined under that provision is the value of the gift for the purposes of this Act.

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

(5) Where the value of a gift has been determined under subsections 118.1(10.1) to (10.5) of the federal Act, the value of the gift as determined under those provisions is the value of the gift for the purposes of this Act.

(2) Subsection (1)(a) is applicable to gifts made after February 20, 1990.

(3) Subsection (1)(b) is applicable to gifts made after July 12, 1996.

13(1) Section 19(3) is repealed and the following is substituted:

(3) Where a corporation is not resident in Canada, for the purposes of this Part and in the application of Part IV of the federal regulations,

- (a) the references to taxable income in subsections (1) and (2) shall be read as references to taxable income earned in Canada, and
- (b) subsection 413(1) of the federal regulations shall be read as if “taxable income earned in Canada as determined under section 115 of the Act” were replaced with “taxable income earned in Canada as determined under section 17.1 of the *Alberta Corporate Tax Act*”.

(2) This section applies after June 27, 1999.

14(1) Section 20 is amended

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

Amount taxable in Alberta

20(1) In this section, “attributed Canadian royalty income” of a corporation for a taxation year in which it had a permanent establishment in Alberta means the amount, if any, by which the aggregate of

- (a) the amounts required to be included in computing the corporation’s income for the year by virtue of paragraph 12(1)(o) of the federal Act,
- (b) the amounts in respect of which no deduction is allowed in computing the corporation’s income for the year by virtue of paragraph 18(1)(m) of the federal Act, other than amounts described in the definition of Canadian development expense in subsection 66.2(5) of the federal Act or the definition of Canadian oil and gas property expense in subsection 66.4(5) of the federal Act,
- (c) any amounts by which the fair market value, as determined under subsection 69(8) of the federal Act, of petroleum, natural gas or related hydrocarbons or metal or minerals disposed of under dispositions referred to in subsection 69(6) of the federal Act exceeds the proceeds

of disposition, if any, actually received by the corporation in respect of the petroleum, natural gas or related hydrocarbons or metal or minerals so disposed of,

- (d) any amounts by which the amount referred to in subsection 69(7) of the federal Act in respect of acquisitions of petroleum, natural gas or related hydrocarbons or metal or minerals referred to in that subsection exceeds the fair market value, as determined under subsection 69(9) of the federal Act, of the petroleum, natural gas or related hydrocarbons or metal or minerals so acquired, and
- (e) any amount that would be deemed to have been payable in the year by a trust to the corporation as beneficiary of the trust under subsection 104(29) of the federal Act if the reference in that subsection to paragraph 18(1)(l.1) were struck out,

exceeds the aggregate of

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

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

(3.1) Where a corporation is not resident in Canada, the references to taxable income in subsections (2) and (3) shall be read as references to taxable income earned in Canada.

(c) by adding the following after subsection (6.3):

(6.4) For the purposes of this section, where at any time

- (a) control of a corporation is acquired by a person or group of persons, or
- (b) a corporation ceased to be exempt from tax under this Act on its taxable income,

such that subsection 66.7(10) of the federal Act as adopted by section 11(1) applies for the purposes of this Act, the following rules apply:

- (c) if the corporation was not a successor corporation at that time within the meaning of subsection (5), for the purposes of subsection (5), the corporation is
 - (i) with respect to the taxation year ending immediately prior to that time, deemed
 - (A) to have immediately prior to that time disposed of all of the Canadian resource properties owned by it immediately prior to that time, and
 - (B) to be a predecessor corporation within the meaning of subsection (5),and
 - (ii) with respect to taxation years ending after that time, deemed
 - (A) to have immediately prior to that time acquired all of the Canadian resource properties referred to in subclause (i)(A) from another person, and
 - (B) to be a successor corporation within the meaning of subsection (5);
- (d) if the corporation was a successor corporation at that time within the meaning of subsection (5), for the purposes of subsection (6), the corporation is
 - (i) with respect to the taxation year ending immediately prior to that time, deemed

- (A) to have immediately prior to that time disposed of all of the Canadian resource properties owned by it immediately prior to that time, and
 - (B) to be a first successor corporation within the meaning of subsection (6),
- and
- (ii) with respect to taxation years ending after that time, deemed
 - (A) to have immediately prior to that time acquired all of the Canadian resource properties referred to in subclause (i)(A) from another corporation, and
 - (B) to be a second successor corporation within the meaning of subsection (6);
- (e) if the corporation was a second successor corporation at that time within the meaning of subsection (6), it is deemed
 - (i) to have immediately prior to that time disposed of all of the Canadian resource properties owned by it immediately prior to that time, and
 - (ii) to have acquired all of the Canadian resource properties referred to in subclause (i) from another corporation.

(2) Subsection (1)(a) applies to the 2002 and subsequent taxation years.

(3) Subsection (1)(b) applies after June 27, 1999.

(4) Subsection (1)(c) applies to corporations referred to in section 20(6.4) whose taxation years end after this subsection comes into force, unless control of the corporation was acquired by a person or group of persons pursuant to an agreement in writing entered into before this subsection comes into force, in which case subsection (1)(c) applies to the corporation's first taxation year beginning after this section comes into force.

15(1) Section 21 is amended

(a) by striking out “or ” at the end of clause (f);

(b) by repealing clause (g) and substituting the following:

(g) beginning after March 31, 2001 and ending before April 1, 2002 is 13.5% of the amount taxable in Alberta for the year,

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

(h) part of which is before April 1, 2002 and part of which is after March 31, 2002, is the aggregate of

(i) 13.5% of the proportion of the amount taxable in Alberta for the year that the number of days in the year before April 1, 2002 bears to the number of days in the year, and

(ii) 13.0% of the proportion of the amount taxable in Alberta for the year that the number of days in the year after March 31, 2002 bears to the number of days in the year,

or

(i) beginning after March 31, 2002 is 13% of the amount taxable in Alberta for the year.

(2) Subsection (1)(a) and (b) apply after March 31, 2001.

(3) Subsection (1)(c) applies after March 31, 2002.

16(1) Section 22 is amended

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

(g) “specified partnership income” of a corporation for a taxation year has the meaning assigned to it by subsection 125(7) of the federal Act except that where the fiscal period of a partnership ends after March 31, 2001, paragraph (b) of the definition of A shall be read as follows:

(b) the aggregate of the amounts determined by the formulas

(i) $K/L \times P$,

(ii) $K/L \times Q$, and

(iii) $K/L \times R$

where

K and L have the meaning assigned to them in the definition of specified partnership income in subsection 125(7) of the federal Act, and

P is the lesser of

(i) \$200 000, and

(ii) the product obtained when \$548 is multiplied by the total of all amounts each of which is the number of days contained in a fiscal period of the partnership ending in the year that were before April 1, 2001,

Q is the lesser of

(i) \$300 000, and

(ii) the product obtained when \$822 is multiplied by the total of all amounts each of which is the number of days contained in a fiscal period of the partnership ending in the year that were after March 31, 2001 and before April 1, 2002,

and

R is the lesser of

(i) \$350 000, and

(ii) the product obtained when \$959 is multiplied by the total of all amounts each of which is the number of days contained in a fiscal period of the

partnership ending in the year that were after March 31, 2002.

(b) in subsection (2.12)(c) by adding “and before April 1, 2002” after “March 31, 2001”;

(c) by adding the following after subsection (2.12):

(2.121) Subject to subsection (2.13), there may be deducted from the tax payable under section 21 for a taxation year ending after March 31, 2002 by a corporation that was, throughout the year, a Canadian-controlled private corporation an amount equal to the product obtained by the multiplication of the following:

- (a) the small business allocation factor for the year;
- (b) 8.5%;
- (c) the proportion of the least of the following amounts that the number of days in the year after March 31, 2002 bears to the number of days in the year:
 - (i) the amount determined under subsection (2)(a);
 - (ii) the amount determined under subsection (2)(b);
 - (iii) 175% of the corporation’s business limit for the year.

(d) in subsection (2.13)

(i) by striking out “or” at the end of clause (a);

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

- (b) under subsection (2.12) for a taxation year in excess of the product obtained when the proportion of the amount determined under section 20(2) that the number of days in the taxation year after March 31, 2001 and before April 1, 2002 bears to the number of days in the taxation year is multiplied by 8.5%, or
- (c) under subsection (2.121) for a taxation year in excess of the product obtained when the proportion of the amount determined under section 20(2) that the

number of days in the taxation year after March 31, 2002 bears to the number of days in the taxation year is multiplied by 8.5%.

(e) in subsection (2.2) by striking out “and (2.12)” and substituting “, (2.12) and (2.121)”;

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

(3) Subsections 125(3) and (4) of the federal Act apply for the purposes of this section except that

- (a) any references to the Minister are deemed to be references to the Provincial Minister, and
- (b) any agreement filed with the Provincial Minister may not allocate any different amount to a corporation than the amount allocated to the corporation pursuant to the agreement filed with the Minister of National Revenue pursuant to subsection 125(3) of the federal Act.

(2) Subsection (1)(a) applies after March 31, 2001.

(3) Subsection (1)(b) to (e) apply after March 31, 2002.

(4) Subsection (1)(f) applies to taxation years ending after this subsection comes into force.

17(1) Section 23 is amended

(a) in subsection (2) by striking out “outside Canada, it may deduct from the tax payable remaining after it has claimed the deductions under sections 22 and 22.2 an amount equal to the lesser of” and substituting “other than Canada, it may deduct from tax otherwise payable an amount equal to the least of”;

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

(2.1) For the purposes of this section, the following definitions have the meaning assigned to them in subsection 126(7) of the federal Act:

- (a) “economic profit”, “qualifying incomes”, “qualifying losses”, “related transactions”, “tax-exempt income” and “taxing country”, and
- (b) “non-business income tax”, read without reference to paragraph (c) of the definition.
- (c) in subsection (2.2) by striking out “126(4.1), (4.2), (4.3) and (4.4)” and substituting “126(4), (4.1), (4.2), (4.3), (4.4) and (9)”;**
- (d) by repealing subsection (3) and substituting the following:**

(3) For the purposes of this section,

- (a) the government of a country other than Canada includes the government of a state, province or other political subdivision of that country,
- (b) where a taxpayer’s income for a taxation year is in whole or in part from sources in more than one country other than Canada, subsection (2) shall be read as providing for separate deductions in respect of each of the countries other than Canada, and
- (c) 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, the portion is deemed to be income from a separate source in the particular country.

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

(4) In applying this section and subsections 20(12) and (12.1) of the federal Act as made applicable by section 8 of this Act in respect of an authorized foreign bank,

- (a) the bank is deemed, for the purposes of this section, to be resident in Canada in respect of its Canadian banking business,

- (b) the reference in subsection 20(12) of the federal Act to a country other than Canada shall be read as a reference to a country that is neither Canada nor a country in which the taxpayer is resident at any time in the taxation year,
- (c) subsection (1) shall be read as follows:
 - (1) For the purposes of this section, an amount calculated under subparagraph 126(1)(b)(i) of the federal Act in respect of a corporation's Canadian banking business from sources in a country that is neither Canada nor the country in which the corporation is resident at any time in the taxation year shall be referred to as foreign investment income.
- (d) subsection (2)(a)(iv) shall be read as follows:
 - (iv) if the taxation year ends after March 31, 1991, the amount determined when the foreign investment 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 lesser of
 - (A) the corporation's taxable income earned in Canada for the year, and
 - (B) the total of the corporation's income for the year from its Canadian banking business and the amount determined in respect of the corporation under subparagraph 115(1)(a)(vii) of the federal Act as it applies for purposes of this Act for the year,
- (e) in computing the non-business-income tax paid by the bank for a taxation year to the government of a country other than Canada, there shall be included only taxes that relate to amounts that are included in computing the bank's taxable income earned in Canada from its Canadian banking business, and

- (f) the definition of tax-exempt income in subsection 126(7) of the federal Act shall be read as follows:

“tax-exempt income” means income of a corporation from a source in a particular country in respect of which

(a) the corporation is, because of a comprehensive agreement or convention for the elimination of double tax on income that has the force of law in the particular country and to which a country in which the corporation is resident is a party, entitled to an exemption from all income or profits taxes imposed in the particular country to which the agreement or convention applies, and

(b) no income or profits tax to which the agreement or convention does not apply is imposed in the particular country.

(2) This section applies after June 27, 1999.

18 Section 25, except subsection (3), is repealed.

19 Section 26.1 is amended

(a) in subsection (4) by striking out “If” and substituting “Subject to subsection (4.1), if”;

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

(4.1) The crown royalty shelter allocated to a corporation that is associated with one or more corporations in a taxation year cannot exceed the proportion of \$2 000 000 that the number of days in the corporation’s taxation year bears to 365.

20 Section 26.5, except subsection (3), is repealed.

21(1) Section 30 is amended

(a) by repealing subsection (2.01) and substituting the following:

(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 March 31, 1991 and before February 28, 2000, a reference to any percentage in subparagraph 131(2)(a)(i) of the federal Act shall be read as a reference to $\frac{3}{4}$ of the proportion that tax payable under section 21 of this Act for the year is of the amount taxable in Alberta for the year, and
- (b) in respect of a taxation year ending after July 12, 1996, a reference to any percentage in subparagraph 131(2)(a)(i) of the federal Act shall be read as a reference to $\frac{1}{2}$ of the proportion that tax payable under section 21 of this Act for the year is of the amount taxable in Alberta for the year.

(b) by repealing subsection (4.2) and substituting the following:

(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) a reference to $\frac{100}{21}$ 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 of this Act for the taxation year is of the amount taxable in Alberta for the year,
- (b) a reference to $\frac{100}{18.7}$ shall be read as a reference to the fraction obtained when 1 is divided by $\frac{2}{3}$ of the proportion that tax payable under section 21 of this Act for the taxation year is of the amount taxable in Alberta for the year, and

- (c) a reference to 100/14 shall be read as a reference to the fraction obtained when 1 is divided by $\frac{1}{2}$ of the proportion that tax payable under section 21 of this Act

for the taxation year is of the amount taxable in Alberta for the year.

(2) Subsection (1)(a) applies to taxation years that end after February 27, 2000 except that, for a taxation year of a mutual fund corporation that includes February 28, 2000 or October 17, 2000 or began after February 28, 2000 and ended before October 17, 2000, the reference to the percentage in subparagraph 131(2)(a)(i) of the federal Act shall be read as a reference to the amount determined when the proportion that the tax payable under section 21 of the *Alberta Corporate Tax Act* for the year is of the amount taxable in Alberta for the year is multiplied by the fraction in paragraph 38(a) of the federal Act, as amended by the *Income Tax Amendments Act, 2000* (Canada), SC 2001 c. 17, that applies to the corporation for the year.

(3) Subsection (1)(b) applies to taxation years that end after February 27, 2000 except that, for a taxation year of a mutual fund corporation that includes February 28, 2000 or October 17, 2000, or began after February 28, 2000 and ended before October 17, 2000, the references to 100/18.7 and 100/14 shall be read as a reference to the fraction obtained when 1 is divided by the product of the fraction in 38(a) of the federal Act, as amended by the *Income Tax Amendments Act, 2000* (Canada), SC 2001 c. 17, that applies to the corporation for the year and the proportion that tax payable under section 21 of the *Alberta Corporate Tax Act* for the year is of the amount taxable in Alberta.

22(1) The following is added after section 34.01:

Conversion of foreign bank affiliate to branch

34.011(1) Subject to subsection (2), section 142.7 of the federal Act applies for the purposes of this Act.

- (2)** If a corporation is
- (a) a Canadian affiliate,
 - (b) an entrant bank,
 - (c) a corporation that is affiliated with a Canadian affiliate,
or

- (d) a corporation with whom an entrant bank does not deal at arm's length,

within the meaning of section 142.7 of the federal Act and has filed a valid election under the federal Act applicable to make the particular provisions of section 142.7 operative in the determination of its taxable income under the federal Act, and all other conditions that section 142.7 requires have been complied with, the corporation shall, in the determination of its taxable income under this Act, be required to use the same cost, value, tax basis, dividend, non-capital loss or net capital loss or other amount that was used in the determination of its taxable income under the federal Act.

(2) This section applies after June 27, 1999.

23 Section 35(1)(a) is repealed and the following is substituted:

- (a) on the taxable income of a corporation, other than a prescribed corporation, for a period when section 149 of the federal Act applies to exempt the taxable income of the corporation from federal tax,

24 Section 39 is amended by adding the following after subsection (2):

(2.1) For the purposes of subsection (2)(c) and (d), "interest at the prescribed rate" is deemed to refer to the interest rate prescribed when interest is required to be paid to the Provincial Minister.

25 Section 41(3) is repealed.

26(1) Section 43 is amended by adding the following after subsection (4.2):

(4.3) Notwithstanding subsections (1), (1.02), (2), (3), (5) and (6), such assessments or reassessments of a corporation's tax, interest or penalties payable under this Act for any taxation year shall be made as are necessary to give effect

- (a) to a certificate issued under subsection 33(1) of the *Cultural Property Export and Import Act* (Canada) or to a decision of a court resulting from an appeal made pursuant to section 33.1 of that Act, or
- (b) to a certificate issued under subsection 118.1(10.5) of the federal Act or to a decision of a court resulting from an appeal made pursuant to subsection 169(1.1) of the federal Act.

(2) This section applies to gifts made after July 12, 1996.

27(1) Section 44 is amended by renumbering it as section 44(1) and by adding the following after subsection (1):

(2) Where

- (a) a corporation has filed for a particular taxation year the return of income required by section 36,
- (b) the amount included in computing the corporation's income for the particular year under subsection 91(1) of the federal Act as it applies for the purposes of this Act is subsequently reduced because of a reduction in the foreign accrual property income of a foreign affiliate of the corporation for a taxation year of the affiliate that ends in the particular year and is
 - (i) attributable to the amount prescribed pursuant to the federal regulations to be the deductible loss of the affiliate for the year that arose in a subsequent taxation year of the affiliate that ends in a subsequent year of the corporation, and
 - (ii) included in the description of F in the definition of foreign accrual property income in subsection 95(1) of the federal Act as it applies for the purposes of this Act in respect of the affiliate for the year,

and

- (c) the corporation has filed the prescribed form with the Provincial Minister, on or before the filing due date for the corporation's subsequent taxation year,

the Provincial Minister shall reassess the corporation's tax for any relevant taxation year (other than a taxation year preceding the particular taxation year) in order to take into account the reduction in the amount included under subsection 91(1) of the federal Act as it applies for the purposes of this Act in computing the income of the corporation for the year.

(2) This section applies to taxation years of foreign affiliates that begin after November 1999.

28 Section 47(7) is repealed and the following is substituted:

(7) Where a portion of a repayment made under subsection (2.1) or (4.4) or an amount applied under subsection (3) in respect of a repayment can reasonably be regarded as being in respect of a claim made by the corporation in an objection to or appeal from an assessment of tax for a taxation year for a deduction or exclusion described in subsection (6) in respect of a subsequent taxation year, interest shall not be paid or applied on the portion for any part of a period that is before the latest of the dates described in subsection (6)(d) to (g).

29(1) Section 48 is amended

(a) by adding the following after subsection (1.11):

(1.11) If a corporation that was a large corporation in a taxation year within the meaning assigned by subsection 225.1(8) of the federal Act files a valid objection pursuant to subsection 165(1.11) of the federal Act (the "federal notice of objection") to an assessment with respect to a taxation year made under the federal Act (the "federal assessment"), but does not object within the time required by this Act to an assessment under this Act with respect to that taxation year that is based on the same issues as the federal assessment (the "Alberta parallel assessment"),

- (a) the corporation is deemed to have filed a notice of objection pursuant to subsection (1.11) of this section to the Alberta parallel assessment on the last day on which the notice of objection could have been filed under this Act, and

- (b) the federal notice of objection is deemed to be the objection filed pursuant to subsection (1.11) of this section, with such modifications for the relief sought as are appropriate for the determination of any amount of a change in a balance within the meaning of section 43(6) of this Act or a balance of undeducted outlays or other amounts of the corporation under this Act.

(b) in subsection (1.2) by striking out “section” and substituting “section 43(4.3) or”.

(2) Subsection (1)(a) applies to assessments made after this section comes into force.

(3) Subsection (1)(b) applies to gifts made after July 12, 1996.

30 Section 64(1) is amended by striking out “administration of this Act” and substituting “administration or enforcement of this Act, including the collection of any amount payable under this Act by any person”.

31 The following is added after section 65:

Court order to provide information

65.1 On summary application by the Provincial Minister, a judge may, notwithstanding section 76(5), order a person to provide any access, assistance, information or document sought by the Provincial Minister under section 63 or 64 if the judge is satisfied that

- (a) the person was required under section 63 or 64 to provide the access, assistance, information or document and did not do so, and
- (b) in the case of information or a document, the information or document is not protected from disclosure by solicitor-client privilege within the meaning of subsection 232(1) of the federal Act.

32 Section 68 is repealed and the following is substituted:

Hindrance an offence

68 No person shall, physically or otherwise, interfere with, hinder or molest an authorized person (in this section having the meaning assigned by section 62(a)) doing anything that the authorized person is authorized to do under this Act or attempt to interfere with, hinder or molest an authorized person doing, or prevent or attempt to prevent an authorized person from doing, anything that the authorized person is authorized to do under this Act, and every person shall, unless the person is unable to do so, do everything that the person is required to do by or under sections 63 to 67.

33 Section 77(5) is amended by adding the following after clause (i):

- (j) to any person, solely for the purposes of administration or enforcement of a law of a province that provides for workers' compensation benefits;
- (k) to an official of the federal Department of Finance, solely for the purposes of the formulation or evaluation of tax or fiscal policy;
- (l) to a police officer (within the meaning assigned by subsection 462.48(17) of the *Criminal Code* (Canada)) solely for the purpose of investigating whether an offence has been committed under the *Criminal Code* (Canada), or the laying of an information or the preferring of an indictment, where
 - (i) such information can reasonably be regarded as being necessary for the purpose of ascertaining the circumstances in which an offence under the *Criminal Code* (Canada) may have been committed, or the identity of the person or persons who may have committed an offence, with respect to an official, or with respect to any person related to that official,
 - (ii) the official was or is engaged in the administration or enforcement of this Act, and
 - (iii) the offence can reasonably be considered to be related to that administration or enforcement.

34(1) In this Act, “Provincial Treasurer” is struck out wherever it occurs and “Provincial Minister” is substituted.

(2) In the following provisions “Provincial Treasurer’s” is struck out and “Provincial Minister’s” is substituted:

section 43(3.3);
section 48(4), (4.1) and (7);
section 48.2(1)(b);
section 119(2.3).

(3) In the following provisions “Treasury Department” is struck out and “Minister’s Department” is substituted:

section 66(1);
section 81(1);
section 82(1), (2), (3), (5) and (6).

Explanatory Notes

1 Amends chapter A-15 of the Revised Statutes of Alberta 2000.

2 Section 1 presently reads in part:

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

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

(g) “prescribed” means

(i) with respect to a form, the information to be given on a form or the manner of filing a form, authorized by the Provincial Treasurer,

(i.1) with respect to the manner of making or filing an election, authorized by the Provincial Treasurer, or

(ii) in any other case, prescribed by regulation;

(j) “taxable income” means the income of a corporation calculated in accordance with Part 3.

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

3 Section 2(6) presently reads:

(6) Subject to sections 14.1, 14.2, 14.3, 16.1 and 16.2, 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 5 presently reads:

5(1) A corporation that has a permanent establishment in Alberta at any time in a taxation year shall pay an income tax as required by Part 5 of this Act on its amount taxable in Alberta, computed in accordance with Part 4, for that taxation year.

(2) The income of a corporation for a taxation year shall be determined in accordance with Part 2.

(3) The taxable income of a corporation for a taxation year shall be determined in accordance with Part 3.

(4) The amount taxable in Alberta of a corporation for a taxation year is to be determined in accordance with Part 4.

5 Section 8 presently reads:

8(1) Subject to subsections (1.1) to (3), subdivision b of Division B of Part I of the federal Act applies in determining the income or loss of a corporation from a business or property for a taxation year.

(1.1) In the application of subdivision b of Division B of Part I of the federal Act, a reference to amounts deducted under subsection 127(5) of the federal Act includes the amounts deemed to have been

deducted under that subsection by subsection 127.1(3) or 192(10) of the federal Act.

(2) Subdivision b of Division B of Part I of the federal Act is deemed to include subsection 7(3) of the federal Act.

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

- (a) the reference in paragraph (o) to “or in respect of the late receipt or non-receipt of any such amount” does not apply for the purposes of this Act, and*
- (b) paragraph (x.1) does not apply for the purposes of this Act.*

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

- (a) paragraph (a) shall be read as if “including but not limited to any tax payable under Part I of this Act, any tax payable under the federal Act, any tax similar to that imposed under Part I of this Act that is imposed by a province or any interest or penalties payable in respect of any of them” were added after “outlay or expense”,*
- (b) the reference in paragraph (m) to “or in respect of the late payment or non-payment of any such amount” does not apply for the purposes of this Act, and*
- (c) paragraph (t) does not apply for the purposes of this Act.*

(2.1) Subsection 20(12) of the federal Act does not apply for the purposes of this Act.

(2.2) In determining the income of a corporation from a business or property for a taxation year, there may be deducted the amount described in subsection 20(12) of the federal Act less the amount that is deductible under subsection 126(1) of the federal Act.

(2.3) In determining the income of a corporation for a taxation year, taxes imposed by another province or territory of Canada and computed by reference to the amount of a corporation’s capital are not deductible for the purposes of this Act.

(3) In the application of subsection 22(2) of the federal Act, the reference to “Minister” is deemed to be a reference to the Provincial Treasurer.

6 Section 14.1 presently reads in part:

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 Minister of Revenue 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.

7 Section 14.2 presently reads in part:

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 Minister of Revenue 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.

8 Section 14.3 presently reads:

14.3(1) The copy of the prescribed federal election form to be filed with the Minister of Revenue 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 Minister of Revenue in accordance with subsection (1) except that in applying those subsections for the purposes of this Act, the penalties payable to the Minister of Revenue 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 Minister of Revenue 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.

9 Section 16.1 presently reads in part:

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 Minister of Revenue 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.

10 Section 16.2 presently reads in part:

16.2(1) The copy of the prescribed federal election form to be filed with the Minister of Revenue 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 Minister of Revenue in accordance with subsection (1) except that in applying those subsections for the purposes of this Act, the penalties payable to the Minister of Revenue are 1/2 of the amounts described in those subsections.

11 Section 17.1 presently reads:

17.1 Subsections 115(4) and (5) of the federal Act apply for the purposes of this Act as if the references in subsection 115(4) to “income earned in Canada” were to “income”.

12 Section 18 presently reads:

18(1) Taxable income for the taxation year shall be income as determined under Part 2 of this Act plus any amount added under subsection (1.1) and less any deductions allowed by subsection (2).

(1.1) There may be added to a corporation’s taxable income otherwise determined for a taxation year any amount up to the amount added by the corporation under section 110.5 of the federal Act to the extent that the addition does not increase an amount deductible by the corporation under section 22 or 22.2 for the year.

(2) Subject to subsection (3), sections 110, 110.1, 111, 112 and 113 of the federal Act apply in the calculation of taxable income for the purposes of this Act.

(3) In the application of section 111 of the federal Act

(a) subparagraph 111(3)(a)(ii) does not apply,

(a.1) paragraph (b) under C in the definition of “net capital loss” in subsection 111(8) shall be read as if “or claimed by the taxpayer under paragraph 186(1)(c) or (d)” were struck out,

(a.2) to determine the non-capital loss of a corporation for a taxation year, the reference to section 110.5 under B in the definition of “non-capital loss” in subsection 111(8) shall be read as a reference to section 18(1.1) of this Act,

(a.3) subsection 111(10) does not apply, and

- (b) *with respect to the computation of taxable income for taxation years of a corporation to which this Act applies, no deduction shall be allowed for a corporation's non-capital losses, net capital losses, restricted farm losses or farm losses determined under this Act for the 1983 or subsequent taxation years to the extent that those losses have been deducted in computing taxable income for taxation years of the corporation to which the Alberta Income Tax Act applies.*

13 Section 19(3) presently reads:

(3) For the purposes of this Part and in the application of Part IV of the federal regulations,

- (a) *subsection 413(1) of the federal regulations shall be read as if “and “taxable income” is deemed to refer to taxable income earned in Canada as determined under section 115 of the Act” were struck out, and*
- (b) *if a corporation is not resident in Canada, “taxable income” is deemed to refer to taxable income earned in Canada as determined under section 115 of the federal Act as if the references to section 3 or any of its paragraphs in subsection 115(1) of the federal Act were references to section 6 or the corresponding clauses of section 6 of this Act.*

14 Section 20 presently reads in part:

20(1) In this section, “attributed Canadian royalty income” of a corporation for a taxation year in which it had a permanent establishment in Alberta means the amount, if any, by which the aggregate of

- (a) *the amounts required to be included in computing the corporation's income for the year by virtue of paragraph 12(1)(o) of the federal Act, where those amounts relate to the production from oil or gas wells or bituminous sands deposits, oil sands deposits or coal deposits or to any right, licence or privilege to explore for, drill for or recover petroleum or natural gas or to explore for, mine, quarry, remove, treat or process bituminous sands or oil sands or to win or work mines, seams or beds of coal,*
- (b) *the amounts in respect of which no deduction is allowed in computing the corporation's income for the year by virtue of paragraph 18(1)(m) of the federal Act, other than amounts described in the definition of “Canadian development expense” in subsection 66.2(5) of the federal Act or the definition of “Canadian oil and gas property expense” in subsection 66.4(5) of the federal Act, where those amounts*

relate to the production from oil or gas wells or bituminous sands deposits, oil sands deposits or coal deposits or to any right, licence or privilege to explore for, drill for or recover petroleum or natural gas or to explore for, mine, quarry, remove, treat or process bituminous sands or oil sands or to win or work mines, seams or beds of coal,

- (c) any amounts by which the fair market value, as determined under subsection 69(8) of the federal Act, of petroleum, natural gas or coal disposed of under dispositions referred to in subsection 69(6) of the federal Act, exceeds the proceeds of disposition, if any, actually received by it in respect of the petroleum, natural gas or coal so disposed of,*
- (d) any amounts by which the amount referred to in subsection 69(7) of the federal Act in respect of acquisitions of petroleum, natural gas or coal referred to in that subsection exceeds the fair market value, as determined under subsection 69(9) of the federal Act, of the petroleum, natural gas or coal so acquired, and*
- (d.1) any amount that would be deemed to have been payable in the year by a trust to the corporation as beneficiary of the trust under subsection 104(29) of the federal Act if the reference in that subsection to paragraph 18(1)(l.1) were struck out,*

exceeds the aggregate of

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

(5) Except with respect to an amalgamation or winding-up to which subsection (6.1) or (6.2) applies, if a corporation (in this subsection referred to as the “successor corporation”) has, at any time after May 6, 1974, acquired by purchase, amalgamation, merger, winding-up or otherwise from another person, (in this subsection referred to as the “predecessor”) all or substantially all of the Canadian resource properties of the predecessor, the successor corporation shall, in determining its royalty tax deduction for a taxation year, be entitled to include in the calculation of its attributed Canadian royalty income for the year the lesser of

- (a) *the amount that, but for this subsection, the predecessor would have been entitled to carry forward under subsection (4) or under section 11(6) or (7) of the Alberta Income Tax Act in respect of its taxation year in which the property so acquired was acquired by the successor corporation, to the extent that such amount has not been included in the attributed Canadian royalty income of the successor corporation for a previous taxation year, and*
- (b) *an amount equal to such part of its income for the year if no deduction were allowed under section 65, 66, 66.1, 66.2, 66.4, 66.5 or 66.7 of the federal Act as may reasonably be regarded as attributable to the production of petroleum, natural gas or coal from the property so acquired from the predecessor,*

and in respect of any such attributed Canadian royalty income included in the amount referred to in clause (a), no amount may be used by the predecessor in determining the predecessor's royalty tax deduction for a taxation year subsequent to its taxation year in which the property so acquired was acquired by the successor corporation.

(6) Except with respect to an amalgamation or winding-up to which subsection (6.1) or (6.2) applies, if a corporation (in this subsection referred to as the "second successor corporation") has, at any time after May 6, 1974, acquired by purchase, amalgamation, merger, winding-up or otherwise from another corporation (in this subsection referred to as the "first successor corporation") that was a successor corporation within the meaning of subsection (5), all or substantially all of the Canadian resource properties of the first successor corporation, the second successor corporation shall, in determining its royalty tax deduction for a taxation year, be entitled to include in the calculation of its attributed Canadian royalty income for the year the lesser of

- (a) *the amount determined under subsection (5)(a) in respect of the first successor corporation to the extent that the amount has not been included in the attributed Canadian royalty income of the first successor corporation for its previous taxation year in which the property so acquired was acquired by the second successor corporation and has not been included in the attributed Canadian royalty income of the second successor corporation for a taxation year, and*
- (b) *an amount equal to such part of its income for the year if no deduction were allowed under section 65, 66, 66.1, 66.2, 66.4, 66.5 or 66.7 of the federal Act as may reasonably be regarded as attributable to the production of petroleum, natural gas or coal from the property acquired from the first successor corporation's predecessor corporation within the meaning of subsection (5),*

and in respect of any such attributed Canadian royalty income included in the amount referred to in clause (a), no amount may be used by the first successor corporation in determining its royalty tax deduction for a taxation year subsequent to its taxation year in which the property so acquired was acquired by the second successor corporation.

(6.1) If there has been an amalgamation described in subsection 87(1) of the federal Act of corporations described in subsection 87(1.1) of the federal Act, the new corporation is, for the purposes of this section, deemed to be the same corporation as and a continuation of each predecessor corporation, except that this subsection shall in no respect affect the determination of any predecessor corporation's fiscal period, taxable income or tax payable.

(6.2) For the purposes of this section, if the rules in subsection 88(1) of the federal Act applied to the winding-up of a subsidiary, its parent is deemed to be the same corporation as and a continuation of the subsidiary.

(6.3) If a corporation (in this subsection referred to as the "particular corporation") has, at any time after July 19, 1985, acquired by purchase, amalgamation, merger, winding-up or otherwise from another person (in this subsection referred to as the "predecessor") who is exempt from tax under Part I of the federal Act on its taxable income, other than a predecessor that

(a) is referred to in paragraph 149(1)(d) of the federal Act, and

(b) is a principal-business corporation within the meaning assigned to it by subsection 66(15) of the federal Act,

all or substantially all of the Canadian resource properties of the predecessor, subsections (5) and (6) do not apply to the particular corporation in respect of the acquisition of the property except to the extent that the property was acquired by it before 1987 pursuant to an agreement in writing made by it before July 20, 1985.

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

15 Section 21 presently reads in part:

21 Except where otherwise provided in this Part, the tax payable under this Act by a corporation that has a taxation year

(f) part of which is before April 1, 2001 and part of which is after March 31, 2001, is the aggregate of

- (i) *15.5% of the proportion of the amount taxable in Alberta for the year that the number of days in the year before April 1, 2001 bears to the number of days in the year, and*
- (ii) *13.5% of the proportion of the amount taxable in Alberta for the year that the number of days in the year after March 31, 2001 bears to the number of days in the year,*

or

- (g) *beginning after April 1, 2001 is 13.5% of the amount taxable in Alberta for the year.*

16 Section 22 presently reads in part:

22(1) In this section,

- (g) *“specified partnership income” of a corporation for a taxation year has the meaning assigned to it by subsection 125(7) of the federal Act;*

(2.12) Subject to subsection (2.13), there may be deducted from the tax payable under section 21 for a taxation year ending after March 31, 2001 by a corporation that was, throughout the year, a Canadian-controlled private corporation an amount equal to the product obtained by the multiplication of the following:

- (a) the small business allocation factor for the year;*
- (b) 8.5%;*
- (c) the proportion of the least of the following amounts that the number of days in the year after March 31, 2001 bears to the number of days in the year:*
 - (i) the amount determined under subsection (2)(a);*
 - (ii) the amount determined under subsection (2)(b);*
 - (iii) 150% of the corporation's business limit for the year.*

(2.13) No amount may be deducted

- (a) under subsection (2.11) for a taxation year in excess of the product obtained when the proportion of the amount determined under section 20(2) that the number of days in the taxation year before April 1, 2001 bears to the number of days in the taxation year is multiplied by 9.5%, or*
- (b) under subsection (2.12) for a taxation year in excess of the product obtained when the proportion of the amount determined under section 20(2) that the number of days in the taxation year after March 31, 2001 bears to the number of days in the taxation year is multiplied by 8.5%.*

(2.2) For the purposes of subsections (2), (2.11) and (2.12), the "small business allocation factor" is the Alberta allocation factor that would be determined if, during the taxation year, the corporation had no permanent establishment in a country other than Canada.

(3) Subsections 125(3) and (4) of the federal Act apply for the purposes of this section except that references to the "Minister" are deemed to be references to the Provincial Treasurer.

17 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 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 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 and 22.2.*

(2.1) *For the purposes of this section, “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”.*

(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.*

(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) is deemed to provide for a separate deduction in respect of each of the countries other than Canada.*

(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.*

18 Section 25 presently reads:

25(1) *In this section,*

(a) *“Alberta rental investment tax credit” means the amount by which a corporation is entitled by this section to reduce the amount of tax that it would otherwise be required to pay under this Part;*

(a.1) *“amount invested” means the capital cost to the corporation of a qualifying Alberta multiple unit residential building;*

(b) *“maximum eligible incentive” means, for each qualifying Alberta multiple unit residential building of a corporation, the lesser of*

(i) *5% of the amount invested by the corporation in that qualifying Alberta multiple unit residential building, and*

(ii) *the amount determined by multiplying \$3000 by*

(A) *the number of residential units owned by the corporation in the qualifying Alberta multiple unit residential building, or*

(B) *where paragraph (A) is inapplicable, the product obtained when the proportion that the amount invested by the corporation is of the total capital cost of the qualifying Alberta multiple unit residential building is*

multiplied by the number of residential units in the qualifying Alberta multiple unit residential building;

(c) *“qualifying Alberta multiple unit residential building” means a property that is a multiple unit residential building in Alberta that is or would, but for the operation of Class 31 or 32 of Schedule II of the federal regulations, be included in Class 3 or 6 of Schedule II of the federal regulations and in respect of which*

(i) *a certificate of eligibility has been issued by the Alberta Mortgage and Housing Corporation certifying that the installation of footings or any other base support of the building was commenced after December 31, 1979 and before January 1, 1982, and that, according to plans and specifications for the building, not less than 80% of the floor space will be used in providing self-contained domestic establishments and related parking, recreation, service and storage areas,*

(ii) *a certificate of completion has been issued to the corporation by the Minister of Housing or the Minister of Municipal Affairs, as the case may be, before July 1, 1987, and*

(iii) *immediately after the certificate of completion has been issued, not more than 20% of the floor space is used for any purposes other than those referred to in subclause (i)*

but does not include property

(iv) *the cost of which is deductible in computing the corporation’s income,*

(v) *that is described in the corporation’s inventory, or*

(vi) *that was not acquired by the corporation for the purpose of gaining or producing income;*

(d) *“residential unit” means a self-contained domestic establishment referred to in clause (c)(i), but does not include a property described in clause (c)(iv), (v) or (vi).*

(2) *If a corporation was, at the end of a taxation year of a partnership, a member of the partnership, its share of any amount that would be an amount invested by the partnership in that taxation year, if the partnership were a taxpayer corporation, is, for the*

purposes of this section, deemed to be an amount invested by the corporation in its taxation year in which the taxation year of the partnership ended.

(3) A corporation may reduce the amount of tax that it would be required to pay under this Part after complying with sections 21, 22, 22.2, 23 and 24 by an amount equal to the lesser of

- (a) the amount, if any, by which the aggregate of the maximum eligible incentive for all qualifying Alberta multiple unit residential buildings of the corporation exceeds the aggregate of all tax credits allowed in a previous taxation year to the corporation under this section, and*
- (b) the tax payable under this Act after claiming the deductions under sections 22, 22.2, 23 and 24.*

(4) A corporation is not entitled to an Alberta rental investment tax credit in respect of a taxation year unless a certificate of completion issued by the Minister of Housing or the Minister of Municipal Affairs, as the case may be, and, where the qualifying Alberta multiple unit residential building is owned in partnership or is owned by more than one person, a copy of the ownership agreement issued by the Minister of Housing or the Minister of Municipal Affairs, as the case may be, accompany an application made under this section.

(4.1) No application may be made under this section after June 30, 1990.

(5) A certificate issued under subsection (1)(c)(i) or (ii) may be revoked by the person who issued it if

- (a) an incorrect statement was made in the furnishing of information, or*
- (b) the corporation does not comply with subsection (1)(c)*

and a certificate that has been revoked is deemed to have been void from the time of its issue.

19 Section 26.1(4) presently reads:

(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).

20 Section 26.5 presently reads:

26.5(1) In this Division,

- (a) *“amount invested” means the capital cost of depreciable property of the corporation that is*
- (i) *included in Class 3 of Schedule II of the federal regulations, and*
 - (ii) *a qualifying Alberta multiple unit residential building*
determined at the time of issue of the certificate of completion referred to in clause (d)(ii) if the corporation is an owner of the depreciable property at that time, but does not include the cost of depreciable property in respect of which the corporation has received or is entitled to receive prescribed assistance;
- (b) *“extended Alberta rental investment tax credit” means a credit to which a corporation is entitled under this section;*
- (c) *“maximum eligible incentive” means, for each qualifying Alberta multiple unit residential building of a corporation, an amount determined in accordance with the regulations;*
- (d) *“qualifying Alberta multiple unit residential building” means a property that is a multiple unit residential building in Alberta in respect of which*
- (i) *a notification of eligibility has been issued by the Department of Housing or the Department of Municipal Affairs, as the case may be, certifying that the installation of footings or any other base support of the building was commenced after December 31, 1981 and before January 1, 1984 and that, according to plans and specifications for the building, not less than 80% of the floor space will be used in providing self-contained domestic establishments and related parking, recreation, service and storage areas,*
 - (ii) *a certificate of completion has been issued by the Department of Housing or the Department of Municipal Affairs, as the case may be, before July 1, 1987, and*

- (iii) *immediately after the certificate of completion has been issued, not more than 20% of the floor space is used for any purposes other than those referred to in subclause (i).*
- (2) *The Department of Municipal Affairs may issue one notification of eligibility and one certificate of completion with respect to a qualifying Alberta multiple unit residential building in Alberta for the purposes of this Division.*
- (3) *A corporation that has a permanent establishment in Alberta at any time in the taxation year and has an amount invested is entitled to an extended Alberta rental investment tax credit for the taxation year in an amount equal to the aggregate of the maximum eligible incentives of the corporation that have not been used in the calculation of an extended Alberta rental investment tax credit in a previous taxation year.*
- (4) *If a corporation was, at the end of a taxation year of a partnership, a member of the partnership, its share of any amount that would be an amount invested by the partnership in that taxation year, if the partnership were a taxpayer corporation, is, for the purposes of this section, deemed to be an amount invested by the corporation in its taxation year in which the taxation year of the partnership ended.*
- (5) *Application for an extended Alberta rental investment tax credit must be filed in the prescribed form*
 - (a) *within 36 months from the date of issue of the certificate of completion referred to in subsection (1)(d)(ii) but not before the end of the taxation year in which the certificate of completion was issued or, in the case of a corporation that is a member of a partnership, not before the end of the taxation year of the corporation in which the fiscal period of the partnership ended during which the certificate of completion was issued,*
 - (a.1) *together with, if the qualifying Alberta multiple unit residential building is owned in partnership or is owned by more than one person, a copy of the ownership agreement, and*
 - (b) *with the return required under section 36(1) for that taxation year or subsequent to the filing of that return.*
- (6) *No corporation is entitled to an extended Alberta rental investment tax credit until it has filed an application in accordance with subsection (5).*
 - (6.1) *A corporation is deemed to have paid on the day on which it files an application in accordance with subsection (5) in respect of a taxation year an amount on account of its tax for the year equal to the extended Alberta rental investment tax credit to which it is entitled for the year.*

(7) If a certificate has been revoked by the Department of Housing or the Department of Municipal Affairs, as the case may be, it is deemed to have been void from the date of its issue.

21 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.

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

(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 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 3/4 of the proportion that tax payable under section 21 for the year is of the amount taxable in Alberta for the year.

(5.1) 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,

(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.

22 Conversion of foreign bank affiliate to branch.

23 Section 35(1)(a) presently reads:

35(1) No tax is payable under this Act

(a) on the taxable income of a corporation for a period when that corporation was, notwithstanding subsection 27(2) of the federal Act, a corporation referred to in section 149 of the federal Act other than a prescribed corporation,

24 Section 39(2) presently reads:

(2) In addition to the interest payable under subsection (1), a corporation shall pay to the Provincial Treasurer, in respect of a taxation year and in respect of the period beginning on the first day of the year and ending on its balance-due day for the year, the amount, if any, by which the aggregate of

(a) all amounts, each of which is interest at the prescribed rate on tax or an instalment of tax for the year that the corporation was required to pay to the Provincial Treasurer before the end of the period, computed from the day on or before which the tax or instalment was required to be paid to the end of the period, and

- (b) *all amounts, each of which is interest at the prescribed rate on an amount paid during the period by the Provincial Treasurer under section 26.4 for the year, computed from the day of payment to the end of the period,*

exceeds the aggregate of

- (c) *all amounts, each of which is interest at the prescribed rate on an amount paid by the corporation at or before the end of the period and applied by the Provincial Treasurer to reduce the corporation's liability for an amount payable for the year computed from the day that is the later of the beginning of the period and the day of payment to the end of the period, and*
- (d) *all amounts, each of which is interest at the prescribed rate on the amount in respect of a month in the year that would have been determined under section 26.4(4) if "estimated" were struck out in clause (a)(i) and (ii) of that subsection computed from the last day of the month to the end of the period.*

25 Section 41(3) presently reads:

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

26 Section 43(4.2) presently reads:

(4.2) Notwithstanding subsections (1), (1.02), (2), (3), (5) and (6), the Minister of Revenue may make at any time such assessments, reassessments, determinations and redeterminations that are necessary where information is obtained that the conditions in subparagraph 86.1(2)(c)(iii) or (d)(iii) of the federal Act as it applies for the purposes of this Act are not, or are no longer, satisfied.

27 Section 44 presently reads:

44 Where a corporation has filed for a particular taxation year the return required by section 36 and an amount is subsequently claimed by it for the year as a deduction of an amount under this Act,

- (a) *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, or*

(b) by virtue of the application of section 111 of the federal Act in respect of a loss for a subsequent taxation year,

by filing a prescribed form with the Provincial Treasurer, on or before the day on or before which the corporation is required by section 36 to file a return for that subsequent taxation year or within 6 months after the end of that subsequent taxation year if no return is required to be filed because of section 36(1.1)(b) or (c), the Provincial Treasurer shall reassess the corporation's tax for any relevant taxation year (other than a taxation year preceding the particular taxation year) in order to take into account the deduction claimed.

28 Section 47(7) presently reads:

(7) If a repayment made under subsection (2.1) or (4.4) or an amount applied under subsection (3) in respect of a repayment, or a part of a repayment, may reasonably be regarded as being in respect of a claim made by a corporation in an objection to or appeal from an assessment of tax for a taxation year for

(a) the deduction of an amount under this Act by virtue of the application of section 41 of the federal Act in respect of the

corporation's listed-personal-property loss for a subsequent taxation year,

- (b) the exclusion of an amount from the corporation's 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*
- (c) the deduction of an amount 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,*

interest shall not be paid or applied on the repayment or amount applied for any part of a period that is before the latest of

- (d) the first day immediately following that subsequent taxation year,*
- (e) the day on which the corporation's return under section 36 for that subsequent taxation year was filed,*
- (f) if an amended return for the taxation year or a prescribed form amending the corporation's 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*
- (g) if, as a consequence of a request, the Provincial Treasurer reassessed the corporation's tax for the year to take into account the deduction or exclusion, the day on which the request was made.*

29 Section 48 presently reads in part:

48(1) A corporation that objects to an assessment under this Act may serve on the Provincial Treasurer a notice of objection in the prescribed form setting out the reasons for the objection and all relevant facts, on or before the day that is 90 days after the day of mailing of the notice of assessment.

(1.1) Notwithstanding subsection (1), where at any time the Minister of Revenue 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), (4.1) 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 Minister of Revenue 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

- (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.

(1.2) Notwithstanding subsection (1), a corporation shall not object to an assessment made under section 50(1.2) nor, for greater certainty, in respect of an issue for which the right of objection has been waived in writing by the corporation.

30 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, by facsimile 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.*

31 Court order to provide information.

32 Section 68 presently reads:

68 No person shall hinder, molest or interfere with any person doing anything that the person is authorized by or pursuant to sections 62 to 67 to do or prevent or attempt to prevent any person doing that thing and, notwithstanding any other law to the contrary,

a person shall, unless the person is unable to do so, do everything the person is required by or pursuant to sections 62 to 67 to do.

33 Section 77 presently reads in part:

77(1) In this section,

- (a) “person” includes a partnership or firm;*
- (b) “tax information” means any information obtained by or on behalf of the Provincial Treasurer under or for the purposes of this Act and includes, without limitation, a tax record;*
- (c) “tax record” means any record, return, application, document or instrument, whether in written or electronic form, obtained by or on behalf of the Provincial Treasurer under or for the purposes of this Act.*

(5) Tax information may be communicated as follows:

- (a) to a person employed or engaged by the Government of Alberta if the tax information is*

- (i) *statistical in nature and to be used solely in accordance with section 3 of the Statistics Bureau Act;*
 - (ii) *to be used solely by an employee under the administration of the Registrar of Corporations or the Registrar of Companies to confirm that a return or application under this Act has been filed or made by any person;*
 - (iii) *to be used solely for the purposes of the formulation or analysis of tax or fiscal policy;*
 - (iv) *to be used solely for the purposes of administering or enforcing this Act or any other taxation statute of Alberta, the Small Power Research and Development Act or Division 2 of Part 5 of the Hospitals Act;*
 - (v) *to be used solely to identify a person to whom money is owed by the Government and to determine the amount of the money so that the Government can set off all or part of the money owed against amounts owing by that person to the Government;*
- (b) *to a person employed or engaged by the Government of Canada or the government of a province in the administration or enforcement of a taxation statute of Canada or of that province if*
- (i) *the tax information is used solely for the purposes of administering or enforcing the taxation statute, and*
 - (ii) *the Government of Canada or the government of that province supplies the Provincial Treasurer with equivalent information and records on a reciprocal basis;*
- (c) *to an employee or agent of the Government of Canada or the government of a province*
- (i) *if the tax information consists of the name, address, occupation and size or type of business of a person and is to be used solely for the purposes of enabling a department or agent of the Government of Canada or the government of that province to obtain statistical data for research and analysis, or*
 - (ii) *if the tax information consists of the identifying number, name, address, telephone number and facsimile number of an identifying number holder and is to be used solely for the purpose of the administration or enforcement of an Act of Parliament or a law of a province, if the holder of the identifying number is required by that Act or that law to provide the information, other than the identifying number, to the department or agency;*
- (d) *to a person to be used solely in the investigation or prosecution of offences under this Act;*

- (e) *to a justice of the peace or provincial court judge for the purpose of making an application for an order under section 77.1;*
- (f) *to a person employed or engaged in the investigation or prosecution of offences under the Criminal Code (Canada) if*
 - (i) *an order under section 77.1 has been obtained in respect of the tax information, and*
 - (ii) *the tax information is used solely for the purpose of investigating or prosecuting the offence referred to in the order made under section 77.1;*
- (g) *to a corporation if the tax information is in respect of*
 - (i) *the status, for the purposes of section 26(1)(h), of property acquired by the corporation, or*
 - (ii) *the tax cost of property acquired by that corporation if, because of a provision of this Act or the federal Act, the cost is other than the consideration paid by that corporation;*
- (h) *to the person in respect of whom the information was received or any other person if the person in respect of whom the information was received authorizes in writing its release;*
- (i) *to any person if the tax information is in such a form that it cannot, directly or indirectly, be associated with or identify a particular person.*

34 Provincial Treasurer changed to Provincial Minister.

Explanatory Notes