

2003 Bill 212

Third Session, 25th Legislature, 52 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 212

**ALBERTA PERSONAL INCOME TAX
(EDUCATION TAX CREDIT)
AMENDMENT ACT, 2003**

MR. VANDERMEER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 212

2003

ALBERTA PERSONAL INCOME TAX (EDUCATION TAX CREDIT) AMENDMENT ACT, 2003

(Assented to _____, 2003)

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

Amends RSA 2000 cA-30

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

2 The following is added after section 27:

Division 3.1 Independent School Tax Credit

Interpretation

27.1 In this Division,

- (a) “independent school” means a school registered as a private school under the *School Act*;
- (b) “qualifying taxpayer” means an individual who is a parent or legal guardian of a dependant.

Independent school tax credit

27.2(1) For the purpose of computing the tax payable under this Act for a taxation year by a qualifying taxpayer, there may be deducted, for each dependant of the qualifying taxpayer, an amount equivalent to the lesser of

- (a) \$3000,

and

- (b) 50% of the cost of the following in respect of the dependant:
 - (i) tuition for elementary or secondary education at an independent school, and
 - (ii) tutoring programs that are designated in the regulations.

(2) For the purposes of this section, the amount of the credit available pursuant to subsection (1) must be apportioned between qualifying taxpayers based on the proportion of the costs paid by each of them.

(3) A credit may not be claimed under this Division where a tuition or education credit has been claimed in respect of the same dependant.

Regulations

27.3(1) The Lieutenant Governor in Council may make regulations designating tutoring programs that are eligible for a credit under this Division.

(2) The Lieutenant Governor in Council shall make regulations specifying the order in which the credit under this Division shall be applied in computing tax payable under this Act in relation to the order of credits specified in section 42.

3 Section 37 is amended

- (a) **by adding** “and 27.2” **after** “sections 8 to 20”;
- (b) **in clause (a) by striking out** “and 19” **and substituting** “, 19 and 27.2”.

4 Section 38 is amended by striking out “and 20” wherever it occurs and substituting “, 20 and 27.2”.

5 Section 39 is amended

- (a) by striking out “15 to 25” and substituting “15 to 25 and 27.2”;**
- (b) by striking out “and 25” and substituting “, 25 and 27.2”.**

6 Section 40 is amended

(a) in subsection (1)

(i) by striking out “38 and 39” and substituting “27.2, 38 and 39”;

(ii) in clause (b)(i) by striking out “18 and 19” and substituting “18, 19 and 27.2”.

(b) in subsections (3) and (4) by striking out “19 and 20” and substituting “19, 20 and 27.2”.

7 Section 41 is amended by striking out “and 20” wherever it occurs and substituting “, 20 and 27.2”.

8 Section 43 is amended by striking out “sections 10 to 19 of this Act” and substituting “sections 10 to 19 and 27.2 of this Act”.

9 This Act comes into force on Proclamation.

Explanatory Notes

- 1** Amends chapter A-30 of the Revised Statutes of Alberta 2000.
- 2** Tax credit for tuition costs at independent schools.

3 Section 37 presently reads:

37 Despite sections 8 to 20, for the purpose of computing an individual's tax payable under this Act for a taxation year that ends in a calendar year in which the individual becomes bankrupt, the individual is allowed only

- (a) such of the deductions as the individual is entitled to under sections 10, 11, 12, 15, 16, 18 and 19 as can reasonably be considered wholly applicable to the taxation year, and*
- (b) such part of the deductions as the individual is entitled to under sections 8, 9, 13 and 20 as can reasonably be considered applicable to the taxation year,*

except that the total of the amounts so deductible for all taxation years of the individual in the calendar year under any of those provisions cannot exceed the amount that would have been deductible under that

provision in respect of the calendar year if the individual had not become bankrupt.

4 Section 38 presently reads:

38 Despite sections 8, 9, 11, 12, 13, 15, 16, 17, 18, 19 and 20, for the purposes of computing tax payable under this Act for a taxation year by an individual referred to in section 6(2), the amount that may be deducted under those provisions must not exceed the portion of such amount determined by the formula

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

Where

- A is the total of those credits under sections 8, 9, 11, 12, 13, 15, 16, 17, 18, 19 and 20 that the individual is entitled to claim;*
- B is the individual's income for the year as determined in section 1(1)(j)(iii);*
- C is the individual's business income outside Alberta.*

5 Section 39 presently reads:

39 Despite sections 8 to 13 and 15 to 25, for the purposes of computing tax payable under this Act for a taxation year by an individual referred to in section 6(3), the amount that may be deducted under those sections must not exceed the portion of such amount determined by the formula

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

Where

- A is the total of those credits under sections 8, 9, 11, 12, 13, 15, 16, 17, 18, 19, 20, 24 and 25 that the individual is entitled to claim;*
- B is the individual's business income in Alberta;*
- C is the individual's income for the year as determined in section 1(1)(j)(iii).*

6 Section 40 presently reads:

40(1) Despite sections 8 to 20, 38 and 39, where an individual is resident in Canada throughout part of a calendar year and throughout another part of the calendar year is non-resident, for the purpose of computing the individual's tax payable under this Act for the year,

- (a) the amount deductible for the year under each such provision in respect of the part of the year that is not included in the period or periods referred to in clause (b) is computed as though such part were the whole taxation year, and*
- (b) the individual is allowed only*
 - (i) such of the deductions permitted under sections 10, 11, 12, 15, 16, 18 and 19 as can reasonably be considered wholly applicable, and*
 - (ii) such part of the deductions permitted under sections 8, 9, 13 and 20 as can reasonably be considered applicable*

to the period or periods in the year throughout which the individual is resident in Canada, computed as though that period or those periods were the whole taxation year.

(2) Despite subsection (1), the amount deductible for the year by the individual under each provision referred to in subsection (1)(b) cannot exceed the amount that would have been deductible under that provision had the individual been resident in Canada throughout the year.

(3) For an individual referred to in section 6(4), the amount that may be deducted under subsections (1) and (2) for the year must not exceed the portion of such amount determined by the formula

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

Where

A is the total of those credits under sections 8, 9, 11, 12, 13, 15, 16, 18, 19 and 20 that the individual is entitled to claim, and

C and D are the individual's amounts for the year as described in section 6(4).

(4) For an individual referred to in section 6(6), the amount that may be deducted under subsections (1) and (2) for the year must not exceed the portion of such amount determined by the formula

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

Where

A is the total of those credits under sections 8, 9, 11, 12, 13, 15, 16, 18, 19 and 20 that the individual is entitled to claim, and

C and *D* are the individual's amounts for the year as described in section 6(6).

7 Section 41 presently reads:

41(1) Sections 8, 9, 10 and 12 of this Act, section 13 of this Act with respect to the application of subsections 118.3(2) and (3) of the federal Act and sections 15, 16 and 20 of this Act do not apply for the purpose of computing the tax payable under this Act for a taxation year by an individual who at no time in the year is resident in Canada unless all or substantially all of the individual's income for the year is included in computing the individual's taxable income earned in Canada for the year.

(2) For an individual referred to in section 6(5), the amount that may be deducted under subsection (1) for the year must not exceed the portion of such amount determined by the formula

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

Where

A is the total of those credits under sections 8, 9, 11, 12, 13, 15, 16, 18, 19 and 20 that the individual is entitled to claim, and

C and *D* are the individual's amounts for the year as described in section 6(5).

8 Section 43 presently reads:

43 Where a separate return of income with respect to an individual is filed under subsection 70(2), 104(23) or 150(4) of the federal Act for a particular period and another return of income under this Act with respect to the individual is filed for a period ending in the calendar year in which the particular period ends, for the purpose of computing the tax payable under this Act by the individual in those returns, the total of all deductions claimed in all those returns under any of sections

10 to 19 of this Act and section 118.9 of the federal Act cannot exceed the total that could be deducted under those provisions for the year with respect to the individual if no separate returns were filed under subsections 70(2), 104(23) and 150(4) of the federal Act.

9 Coming into force.