

Bill 11
Mr. Danyluk

BILL 11

2004

ALBERTA PERSONAL INCOME TAX AMENDMENT ACT, 2004

(Assented to , 2004)

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 Section 6(5) is amended in the description of B by striking out “for the year earned in Canada” and substituting “earned in Canada for the year”.

3 Section 23 is amended

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

- (a) the amount, if any, by which any non-business-income tax paid by the individual for the year to the government of the country other than Canada exceeds,
 - (i) where section 127.5 of the federal Act does not apply to the individual for the taxation year, all amounts that could have been claimed by the individual as deductions from tax under that Act for the year under subsection 126(1) of that Act in respect of any non-business-income tax paid to the government of that country, or

- (ii) where section 127.5 of the federal Act applies to the individual for the year, the amount of the individual's special foreign tax credit for the year determined under section 127.54 of that Act in respect of any non-business-income tax paid to the government of that country,

and

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

- (i) the individual's amount, if any, calculated under subparagraph 126(1)(b)(i) of the federal Act from sources in that country for the year,

is of

- (ii) the amount, if any, by which
 - (A) if the individual was resident in Canada throughout the year, the individual's income earned in the year in Alberta computed without reference to paragraph 20(1)(ww) of the federal Act, or
 - (B) if the individual was non-resident at any time in the year, the individual's income earned in the

year in Alberta that is included in the amount determined under paragraph 114(a) of the federal Act in respect of the individual for the year,

exceeds

- (C) the total of all amounts each of which is an amount deducted under section 110.6 or paragraph 111(1)(b) of the federal Act, or deductible under any of paragraphs 110(1)(d) to (d.3), (f), (g) and (j) of the federal Act for the year, in computing the individual's taxable income for the year.

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

(3) In the case of an individual who died during the calendar year, the words "calendar year" in subsection (1) shall be read as "taxation year".

(4) 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 an individual's income for a taxation year is in whole or in part from sources in more than one country other than Canada, subsection (1) 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 as defined in subsection 126(7) of the federal Act 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.

4 Section 25 is amended

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

(b) “Alberta basic tax rate” of an individual for a taxation year means the proportion that the individual’s tax payable under this Act for the year, after deducting only the individual’s personal credits under section 8 and no other credits or rebates under this Division, is of the individual’s taxable income or taxable income earned in Canada, as the case may be, for the year, expressed as a percentage;

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

(c) “attributed Canadian royalty income” of an individual for a taxation year means the value of A as determined pursuant to section 20(6) of the *Alberta Corporate Tax Act* computed as though the individual were a corporation, and only to the extent that this amount reflects the values of

- (i) the amounts included in taxable income or taxable income earned in Canada, as the case may be, by virtue of paragraph 12(1)(o) of the federal Act,
- (ii) the amounts that did not qualify as deductions under paragraph 18(1)(m) of the federal Act, and
- (iii) the amount deducted as a resource allowance under paragraph 20(1)(v.1) of the federal Act

as reported on the individual’s return for that taxation year;

(c) in subsection (2)

- (i) by striking out “20(5) of” and substituting “20(8) of”;**
- (ii) by striking out “20(5)(a)” and substituting “20(8)(a)”.**

5 This Act is deemed to have come into force on January 1, 2003.

Explanatory Notes

1 Amends chapter A-30 of the Revised Statutes of Alberta 2000.

2 Section 6(5) presently reads:

(5) The tax payable under this Act for a taxation year by an individual who at no time in the year was resident in Canada is the amount determined by the formula

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

where

A is the specified percentage for the year;

B is the individual's taxable income for the year earned in Canada;

C is the total of the individual's income for the year earned in Alberta as determined under section 2602 of the federal regulation and the taxable capital gain from the disposition of taxable Alberta property as determined by the Alberta regulation;

D is the individual's income for the year as determined under section 1(1)(j)(ii).

3 Section 23 presently reads:

23(1) An individual who was resident in Alberta on the last day of a calendar year and had income for the year that included income earned in a country other than Canada in respect of which non-business-income tax was paid by the

individual to the government of a country other than Canada may deduct for that taxation year the amount, if any, equal to the lesser of

- (a) the amount, if any, by which the non-business-income tax paid by the individual for the year to the government of the country other than Canada exceeds,*
 - (i) where section 127.5 of the federal Act does not apply to the individual for the taxation year, all amounts that could have been claimed by the individual as deductions from tax under that Act for the year under subsection 126(1) or 180.1(1.1) of that Act, or*
 - (ii) where section 127.5 of the federal Act applies to the individual for the year, the aggregate of*
 - (A) the individual's special foreign tax credit for the year determined under section 127.54 of that Act, and*
 - (B) the amount claimed by the individual as a deduction from tax under that Act for the year under subsection 180.1(1.1) of that Act*

and

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

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

on the assumption that

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

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

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

is of

(ii) the amount, if any, by which

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

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

exceeds

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

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

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

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

(2) For the purposes of subsection (1), the non-business-income tax paid by an individual to the government of a country other than Canada in respect of the individual's income for a year is the non-business-income tax that the individual paid to the government of that country as defined under subsection 126(7) of the federal Act for the purposes of that Act.

4 Section 25 presently reads in part:

25(1) In this section,

(b) *“Alberta basic tax rate” of an individual for a taxation year means the proportion that the individual's tax payable under this Act for the year, after deducting only the individual's personal credits under section 8 and no other credits or rebates under this Division, is of the individual's taxable income for the year, expressed as a percentage;*

(c) *“attributed Canadian royalty income” of an individual for a taxation year means the attributed Canadian royalty income calculated under section 20(1) of the Alberta Corporate Tax Act as though the individual were a corporation;*

(2) If an individual disposes of property to a corporation in a transaction referred to in section 20(5) of the Alberta Corporate Tax Act, the individual may not use any of the attributed Canadian royalty income included by the corporation in the amount referred to in section 20(5)(a) of that Act in determining the individual's royalty tax rebate for the year of disposition or a subsequent taxation year.

5 Coming into force.