

Bill 20
Mr. Ducharme

BILL 20

2005

ALBERTA PERSONAL INCOME TAX AMENDMENT ACT, 2005

(Assented to , 2005)

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 13(1)(c)(iii) is amended by striking out “and dressing”
and substituting “or dressing”.

3 Section 16(2) is amended by adding “has attained the age of
16 years before the end of the year and” after “individual”.

4 Section 20(1.1) is amended by striking out “\$850” and
substituting “\$800”.

5 Section 23 is amended

(a) in subsection (1) by striking out “calendar year” and
substituting “taxation year”;

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

(3) In the case of an individual referred to in section 6(4), the words “last day of a taxation year” in subsection (1) shall be read as “last day in the taxation year on which the individual resided in Canada”.

6 Section 25(1)(c) is repealed and the following is substituted:

- (c) “attributed Canadian royalty income” of an individual for a taxation year means the amount, if any, by which the aggregate of
- (i) the amounts required to be included in computing the individual’s income for the year by virtue of paragraph 12(1)(o) of the federal Act,
 - (ii) the amounts in respect of which no deduction is allowed in computing the individual’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,
 - (iii) 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 individual in respect of the petroleum, natural gas or related hydrocarbons or metal or minerals so disposed of,
 - (iv) 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

- (v) any amount that would be deemed to have been payable in the year by a trust to the individual as beneficiary of the trust under subsection 104(29) of the federal Act

exceeds the aggregate of

- (vi) the amount of reimbursement received by the individual under the terms of a contract, where the reimbursement was for an amount paid or payable by the individual that is required to be included in computing the individual's income or denied as a deduction in that computation by virtue of paragraph 12(1)(o) or 18(1)(m) of the federal Act, and
- (vii) the amount deducted by the individual under paragraph 20(1)(v.1) of the federal Act in the computation of income for the year;

7 The following is added after section 36:

Restriction on credit amounts for part-year residents

36.1(1) Where an individual is resident in Canada throughout part of a calendar year and throughout another part of the calendar year is non-resident, this section applies in computing the amounts that may be deducted under sections 8 to 20 for the purposes of this Act.

(2) 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 amounts deductible for the year under sections 8 to 20 in respect of the part of the year that is not included in the period or periods referred to in clause (b) are computed as though such part were the whole taxation year, and
- (b) the individual is allowed only

- (i) such of the deductions 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.

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

8 Section 40 is repealed and the following is substituted:

Proration of credits for emigrants from Canada

40(1) 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(4), the amount that may be deducted under those provisions 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, 17, 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).

(2) Despite sections 8 to 13 and 15 to 23, for the purposes of computing tax payable under this Act for a taxation year by an individual referred to in section 6(6), the amount that may be

deducted under those sections 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, 17, 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).

9(1) Sections 3 and 4 are deemed to have come into force on January 1, 2001.

(2) Section 2 is deemed to have come into force on January 1, 2003.

(3) Sections 5, 6, 7 and 8 are deemed to have come into force on January 1, 2004.

Explanatory Notes

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

2 Section 13(1)(c) presently reads:

13(1) This section applies where

(c) in the case of

(i) a sight impairment, a medical doctor or an optometrist,

- (i.1) *a speech impairment, a medical doctor or a speech-language pathologist,*
- (ii) *a hearing impairment, a medical doctor or an audiologist,*
- (iii) *an impairment with respect to an individual's ability in feeding and dressing, or in walking, a medical doctor or an occupational therapist,*
- (iv) *an impairment with respect to an individual's ability in perceiving, thinking and remembering, a medical doctor or a psychologist, and*
- (v) *an impairment not referred to in any of subclauses (i) to (iv), a medical doctor*

has certified in prescribed form that the impairment is a severe and prolonged mental or physical impairment the effects of which are such that the individual's ability to perform a basic activity of daily living is markedly restricted or would be markedly restricted but for therapy referred to in clause (b),

3 Section 16(2) presently reads:

(2) Subsection (1) does not apply unless the enrolment is proven by filing with the Provincial Minister a certificate in the prescribed form issued by the designated educational institution and containing prescribed information and, in respect of a designated educational institution described in subparagraph (a)(ii) of the definition "designated educational institution" in subsection 118.6(1) of the federal Act, the individual is enrolled in the program to obtain skills for, or to improve the individual's skills in, an occupation.

4 Section 20(1.1) presently reads:

(1.1) Section 118.81 of the federal Act applies for the purposes of this Act, except that the reference to “\$850” in the description of A is to be read as “\$500”.

5 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 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.*

(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.*

(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.*

6 Section 25(1)(c) presently reads:

25(1) In this section,

- (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;

7 Part-year residents.

8 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).

9 Coming into force.