

2007 Bill 36

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Third Session, 26th Legislature, 56 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 36**

## **ALBERTA CORPORATE TAX AMENDMENT ACT, 2007**

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MR. ROGERS

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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*Bill 36*  
*Mr. Rogers*

## **BILL 36**

2007

### **ALBERTA CORPORATE TAX AMENDMENT ACT, 2007**

*(Assented to , 2007)*

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 8 is amended by adding the following after  
subsection (2.001):

**(2.002)** Subsection 17(7) of the federal Act does not apply for  
the purposes of this Act.

## Explanatory Notes

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

**2** 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,*

*(b) paragraph (x.1) does not apply for the purposes of this Act,*



- (c) *for each taxation year that ends after 2002 and before 2007, the repeal of paragraph (o) does not apply for the purposes of this Act,*
  - (d) *for taxation years that end after 2002 and before 2007, paragraph (z.5) shall be read as “25% of the taxpayer’s prescribed resource loss for the year”,*
  - (e) *notwithstanding paragraph (x.2) as it applies for the purposes of this Act, payments received under the Alberta Royalty Tax Credit program shall be excluded from the calculation of taxable income,*
  - (f) *for a taxation year that begins in 2006 and ends in 2007, the repeal of paragraph (o) does not apply for the purposes of this Act to the proportion of the amount described by that paragraph that the number of days in the taxation year in 2006 bears to the number of days in the taxation year, and*
  - (g) *for a taxation year that begins in 2006 and ends in 2007, paragraph (z.5) shall be read as “that proportion of 25% of the taxpayer’s prescribed loss for the year that the number of days in the taxation year in 2006 bears to the number of days in the taxation year”.*
- (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 1 of this Act, any tax payable under the federal Act, any tax similar to that imposed under Part 1 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,*
- (b.1) *for each taxation year that ends after 2002 and before 2007, the repeal of paragraph (m) does not apply for the purposes of this Act,*
  - (b.2) *for a taxation year that begins in 2006 and ends in 2007, the repeal of paragraph (m) does not apply for the purposes of this Act to the proportion of the amount described by that paragraph that the number of days in the taxation year in 2006 bears to the number of days in the taxation year, and*
- (c) *paragraph (t) does not apply for the purposes of this Act.*
- (2.02) *In the application of subsection 20(1) of the federal Act*
- (a) *for a taxation year that ends after 2002 and before 2007, paragraph (v.1) shall be read as “such amount as is allowed to the taxpayer for the year by regulation in respect of*

**3 Section 19 is amended**

- (a) in subsection (2) by striking out** “by the application of Part IV of the federal regulations to taxable income” **and substituting** “in accordance with the regulations”;
- (b) by repealing subsection (3).**

*natural accumulations of petroleum or natural gas in Canada, oil or gas wells in Canada or mineral resources in Canada”,*

- (b) for a taxation year that begins in 2006 and ends in 2007, paragraph (v.1) shall be read as “that proportion of such amount as is allowed to the taxpayer for the year by regulation in respect of natural accumulations of petroleum or natural gas in Canada, oil or gas wells in Canada or mineral resources in Canada that the number of days in the taxation year in 2006 bears to the number of days in the taxation year”, and*
- (c) no deduction may be made under paragraph (v.1) in respect of any time period after 2006.*

*(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 Minister.*

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

### **3 Section 19 presently reads:**

*19(1) The Alberta allocation factor is the quotient obtained when taxable income earned in Alberta is divided by taxable income.*

*(1.1) For the purposes of sections 14.1(5), 14.2(5) and 16.1(5), in a year when a corporation or partnership does not have taxable income, the Alberta allocation factor shall be determined as if the taxable income of the corporation or partnership were \$1 for the year.*

*(2) Subject to subsection (3), in this section, “taxable income earned in Alberta” means the amount determined by the application of Part IV of the federal regulations to taxable income.*

**4(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)  $\frac{K}{L} \times P,$

(ii)  $\frac{K}{L} \times Q,$

(iii)  $\frac{K}{L} \times R,$

(iv)  $\frac{K}{L} \times S,$

(v)  $\frac{K}{L} \times T,$

(vi)  $\frac{K}{L} \times U,$  and

(vii)  $\frac{K}{L} \times V$

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



*(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”.*

**4** Section 22 presently reads in part:

*22(1) In this section,*

- (a) “active business” carried on by a corporation means any business carried on by the corporation other than a specified investment business or a personal services business and includes an adventure or concern in the nature of trade;*
- (b) “business limit” of a corporation for a taxation year has the meaning assigned to it by subsection 125(2) of the federal Act, as modified by subsections 125(3), (4), (5) and (5.1) of that Act and as adopted by this Act;*
- (c) “Canadian-controlled private corporation” has the meaning assigned to it by subsection 125(7) of the federal Act;*
- (d) “income of the corporation for the year from an active business” has the meaning assigned to it by subsection 125(7) of the federal Act;*
- (e) “personal services business” carried on by a corporation in a taxation year has the meaning assigned to it by subsection 125(7) of the federal Act;*
- (f) “specified investment business” carried on by a corporation in a taxation year has the meaning assigned to it by subsection 125(7) of the federal Act;*
- (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)  $\frac{K \times P}{L}$ ,*

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,

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 and before April 1, 2003,

S is the lesser of

- (i) \$400 000, and
- (ii) the product obtained when \$1096 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, 2003 and before April 1, 2007,

T is the lesser of

- (i) \$430 000, and

(ii)  $\frac{K \times Q}{L}$ ,

(iii)  $\frac{K \times R}{L}$ , and

(iv)  $\frac{K \times S}{L}$

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,*

*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 and before April 1, 2003,*

and

*S is the lesser of*

(i) \$400 000, and

(ii) *the product obtained when \$1096 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, 2003;*

- (ii) the product obtained when \$1175 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, 2007 and before April 1, 2008,

U is the lesser of

- (i) \$460 000, and
- (ii) the product obtained when \$1261 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, 2008 and before April 1, 2009,

and

V is the lesser of

- (i) \$500 000, and
- (ii) the product obtained when \$1370 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, 2009;

**(b) in subsection (2.127)(c) by adding “and before January 1, 2007” after “March 31, 2006”;**

**(c) by adding the following after subsection (2.127):**

**(2.128)** There may be deducted from the tax payable under section 21 for a taxation year ending after December 31, 2006 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) 7%;
- (c) the proportion of the least of the following amounts that the number of days in the year after December 31, 2006

*(2.2) For the purposes of subsections (2), (2.11), (2.12), (2.121), (2.122), (2.123), (2.124), (2.125) and (2.126), 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.*

*(2.127) There may be deducted from the tax payable under section 21 for a taxation year ending after March 31, 2006 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) 7.0%;*
- (c) the proportion of the least of the following amounts that the number of days in the year after March 31, 2006 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) 133.34% of the corporation’s business limit for the year.*

and before April 1, 2007 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) the corporation's business limit for the year.

**(2.129)** There may be deducted from the tax payable under section 21 for a taxation year ending after March 31, 2007 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) 7%;
- (c) the proportion of the least of the following amounts that the number of days in the year after March 31, 2007 and before April 1, 2008 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) 107.5% of the corporation's business limit for the year.

**(2.1291)** There may be deducted from the tax payable under section 21 for a taxation year ending after March 31, 2008 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) 7%;
- (c) the proportion of the least of the following amounts that the number of days in the year after March 31, 2008 and before April 1, 2009 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) 115% of the corporation's business limit for the year.

**(2.1292)** There may be deducted from the tax payable under section 21 for a taxation year ending after March 31, 2009 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) 7%;
- (c) the proportion of the least of the following amounts that the number of days in the year after March 31, 2009 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) 125% of the corporation's business limit for the year.

**(d) in subsection (2.2) by striking out “and (2.126)” and substituting “, (2.126), (2.127), (2.128), (2.129), (2.1291) and (2.1292)”.**

**(2) This section is deemed to have come into force on January 1, 2007.**

**5 Section 26 is amended by adding the following after subsection (1.01):**

**(1.02)** Except for the purposes of section 26.1(3.6), (3.7), (3.9), and (3.91), Alberta crown royalty of a corporation for taxation years commencing after 2005 shall not include any amount that, but for this subsection, would have been Alberta crown royalty of the corporation for the taxation year, where

- (a) the amount is or is in respect of a qualified royalty that is paid or payable to, or became receivable by, any of the



**5** Ending of Alberta royalty tax credit.

recipients described in subsection (1.01)(a)(i)(A), (B) or (C) or (b)(i)(A), (B) or (C) after December 31, 2006,

- (b) the amount is or is in respect of a qualified royalty that is paid or payable to, or became receivable by, any of the recipients described in subsection (1.01)(a)(i)(A), (B) or (C) or (b)(i)(A), (B) or (C) on or before December 31, 2006, to the extent that the corporation is entitled to receive a reimbursement, contribution or allowance in respect of that qualified royalty under the terms of a contract pursuant to section 12.1(2), or
- (c) the amount is Alberta crown royalty of a partnership that is deemed to be Alberta crown royalty of the corporation pursuant to section 26.1(12) or (12.1) and
  - (i) is or is in respect of a qualified royalty that is paid or payable to, or became receivable by, any of the recipients described in subsection (1.01)(a)(i)(A), (B) or (C) or (b)(i)(A), (B) or (C) after December 31, 2006, or
  - (ii) is or is in respect of a qualified royalty that is paid or payable to, or became receivable by, any of the recipients described in subsection (1.01)(a)(i)(A), (B) or (C) or (b)(i)(A), (B) or (C) on or before December 31, 2006, to the extent that the partnership is entitled to receive a reimbursement, contribution or allowance in respect of that qualified royalty under the terms of a contract pursuant to section 12.1(2).

**6(1) Section 26.1 is amended**

- (a) **in subsection (2) by adding** “ending before January 1, 2009” **after** “taxation year”;
- (b) **in subsection (3)(b) by adding** “and ends before January 1, 2007” **after** “December 31, 1994”;
- (c) **by adding the following after subsection (3):**

**(3.01)** If in a taxation year of a corporation that commences in 2006 and ends in 2007 the corporation is

**6** Section 26.1 presently reads in part:

*(2) Subject to subsection (14), a corporation that has Alberta crown royalty in a taxation year is entitled to a royalty tax credit for the year in the amount obtained when the weighted average rate for that year is multiplied by the lesser of*

*(a) its crown royalty shelter for the year, and*

*(b) its Alberta crown royalty for the year.*

*(3) If a corporation is not associated with one or more corporations in a taxation year, its crown royalty shelter for the taxation year is*

- (a) not associated with one or more corporations, and
- (b) is not a member of a partnership during the taxation year,

its crown royalty shelter for the taxation year is the proportion of \$2 000 000 that the number of days before January 1, 2007 in the taxation year bears to 365.

**(d) by adding the following after subsection (3.5):**

**(3.6)** If in a taxation year of a corporation that commences after December 31, 2006 the corporation is not associated with one or more corporations and is a member of one or more partnerships whose fiscal periods ending in that taxation year commenced before January 1, 2007, the crown royalty shelter of the corporation for that taxation year is the aggregate of the amounts determined by the application of the following formula for each partnership:

$$\$2\,000\,000 \times \frac{A}{365} \times \frac{B}{C}$$

where

- A is the number of days before January 1, 2007 in the partnership's fiscal period,
- B is the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty of the corporation for the year from that partnership, and
- C is the Alberta crown royalty of the corporation for the year.

**(3.7)** If in a taxation year of a corporation part of which is before January 1, 2007 and part of which is after December 31, 2006 the corporation is not associated with one or more corporations and is a member of one or more partnerships whose fiscal periods begin before January 1, 2007 and end in that taxation year, the crown royalty shelter of the corporation for that taxation year is the aggregate of the following:

- (a) the amount determined by the following formula:

- (a) if the taxation year ends before January 1, 1995, the lesser of
  - (i) \$2 500 000, and
  - (ii) the proportion of \$2 500 000 that the number of days in the taxation year bears to 365,

and

- (b) if the taxation year begins after December 31, 1994, the lesser of
  - (i) \$2 000 000, and
  - (ii) the proportion of \$2 000 000 that the number of days in the taxation year bears to 365.

(4) Subject to subsection (4.1), 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).

(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.

(5) The aggregate of the crown royalty shelters to be allocated among 2 or more corporations that are associated with each other in a taxation year is

- (a) if the taxation year ends before January 1, 1995, the lesser of
  - (i) \$2 500 000, and
  - (ii) the proportion of \$2 500 000 that the number of days in the taxation year of the corporation with the longest taxation year bears to 365,

and

- (b) if the taxation year begins after December 31, 1994, the lesser of
  - (i) \$2 000 000, and
  - (ii) the proportion of \$2 000 000 that the number of days in the taxation year of the corporation with the longest taxation year bears to 365.

(6) If 2 or more corporations that are associated with each other file an agreement in the prescribed form with the Provincial Minister, the Provincial Minister shall allocate the aggregate of the

$$\$2\,000\,000 \times \frac{E}{365} \times \frac{D}{C}$$

where

C is the Alberta crown royalty of the corporation for the year,

D is the difference between the Alberta crown royalty of the corporation for the year and the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty of the corporation for the year from all partnerships, and

E is the number of days before January 1, 2007 in the corporation's taxation year,

- (b) the aggregate of the amounts determined by the application of the following formula for each partnership:

$$\$2\,000\,000 \times \frac{A}{365} \times \frac{B}{C}$$

where

A is the number of days before January 1, 2007 in the partnership's fiscal period,

B is the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty of the corporation from the particular partnership, and

C is the Alberta crown royalty of the corporation for the year.

**(3.8)** If 2 or more corporations are associated with each other in taxation years ending in 2007, one or more of the corporations' taxation years ending in 2007 begin in 2006 and none of the corporations is a member of a partnership to which subsection (12) or (12.1) applies in those taxation years, the aggregate of the crown royalty shelter of the corporations for the taxation year in which they are associated is the proportion of \$2 000 000 that the number of days before January 1, 2007 in the taxation year of the corporation that has the greatest number of days before January 1, 2007 in its taxation year bears to 365.

*crown royalty shelters among the corporations in accordance with the agreement if the agreement*

*(a) is among all of the corporations, and*

*(b) allocates the aggregate of the crown royalty shelters of the corporations calculated under subsection (3.2), (3.5), (5), (7.02) or (7.05).*

*(7) If the corporations referred to in subsection (6) do not file an agreement in accordance with subsection (6) within 60 days after notice by the Provincial Minister that an agreement under subsection (6) for a taxation year is required for the purposes of this Act is mailed to any of them, the Provincial Minister shall allocate the aggregate of the crown royalty shelters of the corporations calculated under subsection (3.2), (3.5), (5), (7.02) or (7.05) to one or more of the corporations, and the crown royalty shelter of each corporation for that taxation year is the amount, if any, allocated to it.*

**(3.9)** If 2 or more corporations are associated with each other in taxation years ending in 2007 and one or more of the corporations is a corporation to which subsection (3.6) or (3.7) would apply if it were not associated with one or more corporations in that taxation year, the aggregate of the crown royalty shelters for those corporations for the taxation year in which they are associated is the greater of

- (a) the crown royalty shelter of the corporation with the greatest crown royalty shelter for that taxation year determined pursuant to subsection (3.01), (3.6) or (3.7) as if it were not associated, and
- (b) the proportion of \$2 000 000 that the number of days before January 1, 2007 in the taxation year of the corporation that has the greatest number of days before January 1, 2007 in its taxation year bears to 365.

**(3.91)** If 2 or more corporations are associated with each other in taxation years ending in 2008 and one or more of the corporations is a member of a partnership whose fiscal period ending in that taxation year commenced in 2006, the aggregate of the crown royalty shelter for those corporations for the taxation year in which they are associated is the greater of

- (a) the crown royalty shelter of the corporation with the greatest crown royalty shelter for the taxation year determined pursuant to subsection (3.6) as if it were not associated, and
- (b) the proportion of \$2 000 000 that the number of days before January 1, 2007 in the fiscal period of the partnership that has the greatest number of days before January 1, 2007 in its fiscal period bears to 365.

**(e) in subsection (4) by adding “(3.8), (3.9), (3.91),” after “(3.5),”;**

**(f) in subsection (4.1) by adding “ending before January 1, 2007” after “in a taxation year”;**

**(g) by adding the following after subsection (4.1):**

**(4.2)** Subject to subsection (4.3), the crown royalty shelter allocated to a corporation that is associated with one or more





corporations in taxation years ending in 2007 cannot exceed the proportion of \$2 000 000 that the number of days before January 1, 2007 in the corporation's taxation year bears to 365.

**(4.3)** If in a taxation year ending in 2007 or 2008 a corporation is associated with one or more corporations and is a member of one or more partnerships whose fiscal periods ending in the particular year commenced before January 1, 2007, the crown royalty shelter allocated to the corporation for that taxation year cannot exceed the proportion of \$2 000 000 that the greater of the number of days before January 1, 2007 in the fiscal period of the partnership that has the greatest number of days before January 1, 2007 in its fiscal period and the number of days before January 1, 2007 in the corporation's taxation year bears to 365.

**(h)** in subsection (5)(b) by adding "and ends before January 1, 2007" after "December 31, 1994";

**(i)** in subsection (6) by adding "(3.8), (3.9), (3.91)," after "(3.5),";

**(j)** in subsection (7) by adding "(3.8), (3.9), (3.91)," after "(3.5),".

**(2) This section applies with respect to taxation years commencing after December 31, 2005.**

**7 The following is added after section 31:**

**Agricultural cooperatives**

**31.1(1)** Section 135.1 of the federal Act, except subsection (7), applies for the purposes of this Act.

**(2)** This section applies after 2005 except that paragraph 135.1(4)(b) of the federal Act as it applies for the purposes of this Act does not apply to any indebtedness entered into before 2006.

**7** Agricultural cooperatives.

**8(1) Section 72.1 is amended**

**(a) by repealing subsection (3) and substituting the following:**

- (3) An avoidance transaction is any transaction
- (a) that, but for this section, would result, directly or indirectly, in a tax benefit, or
  - (b) that is part of a series of transactions, which series, but for this section, would result, directly or indirectly, in a tax benefit,

but does not include a transaction that may reasonably be considered

- (c) to have been undertaken or arranged primarily for bona fide purposes other than for one or more of the following:
  - (i) to obtain the tax benefit;
  - (ii) to reduce, avoid or defer tax, or another amount payable as or in respect of tax under any other federal or provincial Act or regulation;
  - (iii) to increase a refund of tax, or of another amount in respect of tax, under any other federal or provincial Act or regulation,

or

- (d) to be a transaction that
  - (i) would, if this Act were read without reference to this section, result, directly or indirectly, in a misuse of the provisions of any one or more of
    - (A) this Act or the regulations,
    - (B) the *Income Tax Regulations* (Canada) as they apply for the purposes of this Act,
    - (C) the *Income Tax Application Rules* (Canada) as they apply for the purposes of this Act,

**8** Section 72.1 presently reads in part:

*72.1(1) In this section and in section 41(1.11),*

(a) *“tax benefit” means a reduction, avoidance or deferral of tax or other amount payable under this Act or the regulations or an increase in a refund of tax or other amount under this Act or the regulations, and includes a reduction, avoidance or deferral of tax or other amount that would be payable under this Act or the regulations but for a tax treaty, or an increase in a refund of tax or other amount under this Act or the regulations that is a result of a tax treaty;*

(b) *“tax consequences” to a corporation means the amount of*

(i) *the corporation’s income, taxable income, taxable income earned in Canada or amount taxable in Alberta,*

(ii) *the corporation’s capital, adjusted taxable capital, basic capital amount or taxable capital employed in Canada referred to in Part 10,*

(iii) *the corporation’s amount of premiums receivable referred to in Part 9,*

(iv) *tax, refundable tax credit or other amount payable by or refundable to the corporation under this Act, or*

(v) *any other amount that is relevant for the purposes of computing any amount referred to in this clause;*

(c) *“transaction” includes an arrangement or event.*

(3) *An avoidance transaction is any transaction*

(a) *that, but for this section, would result, directly or indirectly, in a tax benefit, unless the transaction may reasonably be considered to have been undertaken or arranged primarily for bona fide purposes other than to obtain the tax benefit, or*

(b) *that is part of a series of transactions, which series, but for this section, would result, directly or indirectly, in a tax benefit, unless the transaction may reasonably be considered to have been undertaken or arranged primarily for bona fide purposes other than to obtain the tax benefit.*

(D) a tax treaty, or

(E) any other enactment that is relevant in computing tax or any other amount payable by or refundable to a person under this Act or in determining any amount that is relevant for the purposes of that computation,

or

(ii) would result directly or indirectly in any abuse having regard to the provisions referred to in subclause (i), other than this section, read as a whole.

**(b) by repealing subsection (4).**

**(2) Subsection (1) is applicable with respect to transactions entered into after December 31, 1999.**

## **9 Section 106 is amended**

**(a) by adding the following after subsection (1.01):**

**(1.02)** Except for the purposes of subsections (1.3) and (1.4), Alberta crown royalty of an individual for taxation years commencing after 2005 shall not include any amount that, but for this subsection, would have been Alberta crown royalty of the individual for the taxation year where

(a) the amount is or is in respect of a qualified royalty that is paid or payable to, or became receivable by, any of the recipients described in subsection (1.01)(a)(i)(A), (B) or (C) or (b)(i)(A), (B) or (C) after December 31, 2006,

(b) the amount is or is in respect of a qualified royalty that is paid or payable to, or became receivable by, any of the recipients described in subsection (1.01)(a)(i)(A), (B) or (C) or (b)(i)(A), (B) or (C) on or before December 31, 2006, to the extent that the individual is entitled to receive a reimbursement, contribution or allowance in respect of that qualified royalty under the terms of a contract pursuant to section 12.1(2), or

*(4) Subsection (2) applies to a transaction only if it may reasonably be considered that the transaction*

- (a) would, if this Act were read without reference to this section, result directly or indirectly in a misuse of the provisions of any one or more of*
  - (i) this Act or the regulations,*
  - (ii) the Income Tax Regulations (Canada) as they apply for the purposes of this Act,*
  - (iii) the Income Tax Application Rules (Canada) as they apply for the purposes of this Act,*
  - (iv) a tax treaty, or*
  - (v) any other enactment that is relevant in computing tax or any other amount payable by or refundable to a person under this Act or in determining any amount that is relevant for the purposes of that computation, or*
- (b) would result directly or indirectly in an abuse having regard to the provisions referred to in clause (a), other than this section, read as a whole.*

**9** Section 106(1.1)(b) presently reads:

*(1.1) An individual's crown royalty shelter*

- (b) for the 1995 and subsequent taxation years, is the lesser of*
  - (i) \$2 000 000, and*
  - (ii) the proportion of \$2 000 000 that the number of days in the taxation year bears to 365.*

- (c) the amount is Alberta crown royalty of a partnership that is deemed to be Alberta crown royalty of the individual pursuant to subsection (3) and
  - (i) is or is in respect of a qualified royalty that is paid or payable to, or became receivable by, any of the recipients described in subsection (1.01)(a)(i)(A), (B) or (C) or (b)(i)(A), (B) or (C) after December 31, 2006, or
  - (ii) is or is in respect of a qualified royalty that is paid or payable to, or became receivable by, any of the recipients described in subsection (1.01)(a)(i)(A), (B) or (C) or (b)(i)(A), (B) or (C) on or before December 31, 2006, to the extent that the partnership is entitled to receive a reimbursement, contribution or allowance in respect of that qualified royalty under the terms of a contract pursuant to section 12.1(2).

**(b) in subsection (1.1)(b) by striking out “and subsequent taxation years” and substituting “taxation year and subsequent taxation years that end before January 1, 2007”;**

**(c) by adding the following after subsection (1.1):**

**(1.2)** If the taxation year of an individual commences in 2006 and ends in 2007 and the individual is not a member of a partnership to which subsection (3) applies in that taxation year, the crown royalty shelter of the individual for that taxation year is an amount equal to the proportion of \$2 000 000 that the number of days before January 1, 2007 in the taxation year bears to 365.

**(1.3)** If the taxation year of an individual commences in 2006 and ends in 2007 and the individual is a member of one or more partnerships whose fiscal periods ending in that taxation year commenced before 2007, the crown royalty shelter of the individual for that taxation year is the aggregate of the following amounts:

- (a) the amount determined by the following formula:

$$\$2\,000\,000 \times \frac{E}{365} \times \frac{D}{C}$$





where

C is the Alberta crown royalty of the individual for the year,

D is the difference between the Alberta crown royalty of the individual for the year and the Alberta crown royalty deemed by subsection (3) to be Alberta crown royalty of the individual for the year from all partnerships,

E is the number of days before January 1, 2007 in the individual's taxation year,

and

- (b) the aggregate of the amounts determined by the application of the following formula for each partnership:

$$\$2\,000\,000 \times \frac{A}{365} \times \frac{B}{C}$$

where

A is the number of days before January 1, 2007 in the partnership's fiscal period,

B is the Alberta crown royalty deemed by subsection (3) to be Alberta crown royalty of the individual from that partnership, and

C is the Alberta crown royalty of the individual for the taxation year.

**(1.4)** If in a taxation year of an individual commencing after December 31, 2006 the individual is a member of one or more partnerships whose fiscal periods ending in that taxation year commenced before January 1, 2007, the crown royalty shelter of the individual for that taxation year is the aggregate of the amounts determined by the application of the following formula for each partnership:

$$\$2\,000\,000 \times \frac{A}{365} \times \frac{B}{C}$$



where

- A is the number of days before January 1, 2007 in the partnership's fiscal period,
- B is the Alberta crown royalty deemed by subsection (3) to be Alberta crown royalty of the individual for the year from that partnership, and
- C is the Alberta crown royalty of the individual for the taxation year.

**10(1) Section 108(1) is amended by adding “ending before January 1, 2009” after “taxation year”.**

**(2) Subsection (1) applies with respect to taxation years commencing after December 31, 2005.**

**11 Section 3 comes into force on Proclamation.**

**10** Section 108(1) presently reads:

*108(1) Subject to section 110, an individual is entitled to a royalty credit for a taxation year in the amount obtained when the weighted average rate for that year is multiplied by the lesser of*

- (a) the individual's Alberta crown royalty for the year, and*
- (b) the individual's crown royalty shelter for the year.*

**11** Coming into force.





