

2008 Bill 48

First Session, 27th Legislature, 57 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 48

**ALBERTA CORPORATE TAX
AMENDMENT ACT, 2008**

THE MINISTER OF FINANCE AND ENTERPRISE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 48

2008

ALBERTA CORPORATE TAX AMENDMENT ACT, 2008

(Assented to _____, 2008)

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(1) Section 14 is amended

- (a) in subsection (1) by striking out “and (4)” and substituting “, (4) and (5)”;**
- (b) in subsection (3.1) by adding the following after clause (b):**
 - (c) the aggregate of the over-integration tax adjustments of the new corporation at the beginning of its first taxation year is the total of the aggregate of the over-integration tax adjustments of each predecessor corporation at the end of its last taxation year.
- (c) in subsection (3.2) by adding the following after clause (b):**
 - (c) there shall be added to the parent corporation’s aggregate of the over-integration tax adjustments at the beginning of its first taxation year after the commencement of the winding-up the aggregate of the

Explanatory Notes

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

2 Section 14 presently reads:

14(1) Subject to subsections (2), (3), (3.01), (3.02), (3.1), (3.2) and (4) and sections 14.1, 14.2 and 14.3, subdivision h of Division B of Part I of the federal Act applies for the purposes of this Act.

(2) Paragraph 83(3)(b) of the federal Act shall be read as though “penalty” was struck out and “penalty under subsection (4) of the federal Act” was substituted.

(3) Subsections 83(3.1), (4) and (5) of the federal Act do not apply.

(3.01) Section 86.1 of the federal Act, except subsection (5), applies for the purposes of this Act if the information and the election required to be filed with the federal Minister are also filed with the Provincial Minister within the time period set out in section 86.1 of the federal Act.

(3.02) Where the cost amount to the corporation of the original shares referred to in subsection 86.1(3) of the federal Act is different for the purposes of this Act than for the purposes of the federal Act, the information filed with the Provincial Minister under subsection (3.01) of this section must include the cost adjustment calculation

over-integration tax adjustments of the subsidiary at the end of its last taxation year ending before that time.

(d) by repealing subsection (4) and substituting the following:

(4) In the application of section 89 of the federal Act for the purposes of this Act,

- (a) the definition of “eligible dividend” in subsection (1) shall be read as “any amount that is an eligible dividend for purposes of the federal Act”;
- (b) the following definitions apply instead of the definitions of “general rate income pool” and “low rate income pool” in subsection (1):
 - (i) “general rate income pool” is deemed to be an amount equal to the value of the general rate income pool for purposes of the federal Act at the particular time;
 - (ii) “low rate income pool” is deemed to be an amount equal to the value of the low rate income pool for purposes of the federal Act at the particular time;
- (c) paragraph (b) in the definition of “taxable Canadian corporation” in subsection (1) shall be read as though “under this Part” were struck out and “under Part 1 of the federal Act and under this Act” were substituted.

(5) If a corporation makes an election under subsection 89(11) of the federal Act or revokes an election under subsection 89(12) of the federal Act, it is deemed to have made or revoked the same election for the purposes of this Act.

(2) This section applies to taxation years that end after 2005.

3(1) Section 17 is amended by renumbering it as section 17(1) and by adding the following after subsection (1):

(2) The definitions in section 122.1 of the federal Act apply for the purposes of applying section 104 of the federal Act for the purposes of this Act.

described in subsection 86.1(3) of the federal Act using the cost amount to the corporation of the original shares calculated for the purposes of this Act.

(3.1) Where there has been an amalgamation of 2 or more corporations and subsection 87(2) of the federal Act, as made applicable for the purposes of this Act, applies, the following rules also apply:

(b) in order to determine the amount referred to in section 25(3)(a) for the new corporation at any time, there shall be added to the amount otherwise determined under that section the aggregate of the amounts that would have been determined under section 25(3)(a) for each predecessor corporation immediately before the amalgamation.

(3.2) If a taxable Canadian corporation has been wound up and subsection 88(1) of the federal Act, as made applicable for the purposes of this Act, applies, the following rules also apply:

(b) in order to determine the amount referred to in section 25(3)(a) for the parent at any time in a taxation year ending after the commencement of the winding-up, there is to be added to the amount otherwise determined the amount that would have been determined under section 25(3)(a) for the subsidiary immediately before the commencement of the winding-up and section 25(3) shall not apply to the subsidiary for the taxation year in which the winding-up commenced or any subsequent taxation year.

(4) Paragraph (b) in the definition of “taxable Canadian corporation” in subsection 89(1) of the federal Act shall be read as though “under this Part” was struck out and “under Part I of the federal Act and under this Act” was substituted.

3 Section 17 presently reads:

17 Subdivision k of Division B of Part I of the federal Act applies for the purposes of computing the income of a corporation.

(2) This section is deemed to have come into force on October 31, 2006.

4 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 determination of taxable income earned in Alberta by the non-resident corporation, the reference to taxable income in subsection (1) shall be read as a reference to taxable income earned in Canada.

5 The following is added after section 22:

Over-integration tax payable

22.01(1) If a corporation paid eligible dividends during a taxation year and has an over-integration tax adjustment for that taxation year or for any prior taxation year, there shall be added to the tax payable for the taxation year under this Act by the corporation the amount determined under subsection (2).

(2) The over-integration tax payable for a taxation year is equal to the lesser of

(a) the amount determined by the formula

$$A \times B \times 10\%$$

where

A is the amount of eligible dividends paid in the taxation year and after 2008,

B is the rolling average allocation rate at the end of the taxation year determined in accordance with subsection (7),

4 Section 19 presently reads in part:

(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”.

5 Over-integration tax payable.

and

- (b) the aggregate of the over-integration tax adjustments of the corporation determined in accordance with subsection (5).

(3) If the least of the amounts referred to in section 22 for purposes of computing a corporation's small business deduction for a taxation year is greater than the amount of the corporation's business limit for that year, the over-integration tax adjustment for the taxation year is equal to 6.7% of the product obtained when the difference between the least of those amounts and the business limit for the year is multiplied by the Alberta allocation factor for the year.

(4) Notwithstanding subsection (3), the over-integration tax adjustment of a corporation for a taxation year that commences before January 1, 2009 and ends after December 31, 2008 is equal to 6.7% of the amount determined by the formula

$$(A - B) \times C/D \times E$$

where

- A is the least of the amounts referred to in section 22 for purposes of computing the corporation's small business deduction for the taxation year;
- B is the corporation's business limit for the taxation year;
- C is the number of days in the taxation year after December 31, 2008;
- D is the number of days in the taxation year;
- E is the Alberta allocation factor for the taxation year.

(5) The aggregate of the over-integration tax adjustments of the corporation is the amount by which the total of the over-integration tax adjustments of the corporation for all taxation years exceeds the amounts applied to reduce or eliminate an over-integration tax adjustment for a taxation year pursuant to subsection (6).

(6) Over-integration tax adjustments for preceding taxation years shall be reduced or eliminated at the beginning of a taxation year by an amount not exceeding the amount of the over-integration tax payable for the immediately preceding taxation year, except that an over-integration tax adjustment for a taxation year cannot be reduced or eliminated until over-integration tax adjustments for preceding taxation years have been eliminated.

(7) The rolling average allocation rate at the end of a particular taxation year is equal to the quotient obtained when the total of the Alberta allocation factors for

- (a) all taxation years ending on or before the end of the particular year and within the calendar year in which the particular year ends, and
- (b) all taxation years ending within the immediately preceding 2 calendar years

is divided by the total number of those taxation years.

(8) This section comes into force on January 1, 2009 except that

- (a) for taxation years ending in 2009, subsection (7) shall be read as “The rolling average allocation rate at the end of the taxation year is equal to the quotient obtained when the total of the Alberta allocation factors for all taxation years ending on or before the end of the year and within the calendar year is divided by the total number of those taxation years”, and
- (b) for taxation years ending in 2010, subsection (7) shall be read as “The rolling average allocation rate at the end of the taxation year is equal to the quotient obtained when the total of the Alberta allocation factors for all taxation years ending on or before the end of the particular year and within the immediately preceding calendar year is divided by the total number of those taxation years”.

6(1) Section 23(2.2) is amended by adding “, (8)” after “(4.4)”.

(2) This section is deemed to have come into force on October 31, 2006.

7 The following is added after section 26.5:

**Division 3
Scientific Research
and Experimental
Development Tax Credit**

Interpretation

26.6(1) In this Division,

- (a) “Alberta proxy amount” means the amount determined under subsection (3);
- (b) “Alberta SR&ED tax credit” means the scientific research and experimental development tax credit calculated under section 26.7(1);
- (c) “eligible expenditures” means the amount determined under subsection (2);
- (d) “federal expenditures of the corporation” means those amounts included in the SR&ED qualified expenditure pool at the end of a taxation year of a qualified corporation as determined for purposes of the federal Act under subsection 127(9) of the federal Act and for greater certainty does not include any amount in respect of which a qualified corporation is required to add an amount determined under subsection 127(8) or (8.3) of the federal Act;
- (e) “federal investment tax credit” means an investment tax credit to which a corporation becomes entitled in a taxation year under section 127 of the federal Act that is in respect of scientific research and experimental development;
- (f) “first term shared-use-equipment” has the meaning assigned by subsection 127(9) of the federal Act;

6 Section 23(2.2) presently reads:

(2.2) Subsections 126(4), (4.1), (4.2), (4.3), (4.4) and (9) of the federal Act apply for the purposes of computing a corporation's non-business-income tax.

7 Adds Division 3 dealing with Scientific Research and Experimental Development Tax Credit.

- (g) “maximum expenditure limit” for a taxation year means the amount determined under section 26.8;
- (h) “qualified corporation” means a corporation that
 - (i) has a permanent establishment in Alberta at any time during the taxation year, and
 - (ii) carries on scientific research and experimental development in Alberta during the taxation year,

but does not include a corporation that is exempt from tax in the taxation year under this Act by virtue of section 35, other than a prescribed corporation;
- (i) “scientific research and experimental development” has the meaning assigned by subsection 248(1) of the federal Act;
- (j) “second term shared-use-equipment” has the meaning assigned by subsection 127(9) of the federal Act.

(2) The eligible expenditures of a qualified corporation for a taxation year means the amount determined by the formula

$$A - B + C + D - E + F$$

where

- A is those amounts included in federal expenditures of the corporation that are incurred in Alberta after 2008,
- B is the amount, if any, included in the amounts determined under the definition of A that is in respect of a prescribed proxy amount included in federal expenditures of the corporation,
- C is the Alberta proxy amount, if any, for the taxation year,
- D is the amount, if any, in respect of an Alberta SR&ED tax credit that reduced federal expenditures of the corporation in the taxation year,
- E is the amount of the federal investment tax credit received by the corporation in the immediately preceding

taxation year that can reasonably be considered to relate to amounts included in the definition of A in any taxation year, and

F is the amount of a repayment of government assistance, other than an Alberta SR&ED tax credit, or contract payment referred to in paragraphs (e.1) and (e.2) in the definition of investment tax credit in subsection 127(9) of the federal Act in the taxation year or any prior taxation year that can reasonably be considered to relate to amounts included in the definition of A.

(3) The Alberta proxy amount, for purposes of determining a corporation's eligible expenditures for a taxation year, is 65% of the salaries and wages used in the calculation of the prescribed proxy amount included in federal expenditures of the corporation for the taxation year that were incurred in Alberta.

Tax credit deduction

26.7(1) A qualified corporation is entitled to an Alberta SR&ED tax credit in the taxation year equal to 10% of the lesser of

- (a) the corporation's eligible expenditures for the taxation year, and
- (b) the corporation's maximum expenditure limit for the taxation year.

(2) A qualified corporation may deduct from its tax otherwise payable under this Act for a taxation year an amount not exceeding the lesser of

- (a) the corporation's Alberta SR&ED tax credit for the year, and
- (b) the corporation's tax otherwise payable under this Act for the year.

(3) The amount deducted under subsection (2) is deemed to have been paid on account of the qualified corporation's tax payable under this Act on the corporation's balance-due day for the taxation year.

(4) The amount by which a qualified corporation's Alberta SR&ED tax credit for the year exceeds the amount referred to in subsection (2)(b) may be applied by the Provincial Minister to pay any tax, interest or penalty owing by the corporation for that or any taxation year pursuant to this Act, or any other amount owing to the Crown in right of Alberta, and the part of the amount not so applied shall be paid to the corporation.

(5) The amount by which a qualified corporation's Alberta SR&ED tax credit for the year exceeds the amount referred to in subsection (2)(b) is deemed to have been paid by the corporation on the day on which the corporation's claim for the Alberta SR&ED tax credit was received by the Provincial Minister.

(6) No amount shall be included in determining the Alberta SR&ED tax credit of a qualified corporation for a taxation year if the corporation does not file a prescribed form containing prescribed information in respect of the amount on or before the day that is 12 months after the day on or before which the corporation is required to file its return for the taxation year pursuant to section 36.

Maximum expenditure limit

26.8(1) Subject to subsection (2), if a qualified corporation is not associated with one or more corporations in a taxation year, its maximum expenditure limit for the taxation year is

- (a) \$4 000 000 if the taxation year of the corporation is 365 or 366 days,
- (b) \$4 000 000 multiplied by the ratio of the number of days in the taxation year to 365 if the taxation year is shorter than 365 days and does not include February 29, or
- (c) \$4 000 000 multiplied by the ratio of the number of days in the taxation year to 366 if the taxation year is shorter than 366 days and includes February 29.

(2) If the taxation year of a qualified corporation referred to in subsection (1) begins before January 1, 2009 and ends after December 31, 2008, the maximum expenditure limit of the corporation for that year is the proportion of \$4 000 000 that the number of days in the taxation year in 2009 is of 365.

(3) Subject to subsections (4) and (5), if a qualified corporation is associated with one or more corporations in a taxation year, the corporation's maximum expenditure limit for the taxation year is that portion of the maximum expenditure limit that is allocated to the corporation under subsection (9) or (10).

(4) The maximum expenditure limit allocated to a qualified corporation that is associated with one or more corporations in a taxation year cannot exceed the proportion of \$4 000 000 that the number of days in the corporation's taxation year bears to 365.

(5) The maximum expenditure limit allocated to a qualified corporation that is associated with one or more corporations in its taxation year that begins before January 1, 2009 and ends after December 31, 2008 cannot exceed the proportion of \$4 000 000 that the number of days in the taxation year in 2009 bears to 365.

(6) Subject to subsection (7), the maximum expenditure limit to be allocated among 2 or more qualified corporations that are associated with each other in a taxation year is the lesser of

- (a) \$4 000 000, and
- (b) the proportion of \$4 000 000 that the number of days in the taxation year of the corporation with the longest taxation year bears to 365.

(7) If the taxation year of one or more of the corporations referred to in subsection (6) begins before January 1, 2009 and ends after December 31, 2008, the maximum expenditure limit to be allocated among the corporations that are associated with each other in the taxation year is the proportion of \$4 000 000 that the number of days after December 31, 2008 in the taxation year of the corporation that has the greatest number of days after December 31, 2008 in its 2009 taxation year bears to 365.

(8) When a taxation year of a qualified corporation includes February 29, the references to "365" in subsections (2), (4), (5), (6) and (7) shall be read as a reference to "366".

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

maximum expenditure limit among the corporations in accordance with the agreement if the agreement

- (a) is among all the qualified corporations, and
- (b) allocates the maximum expenditure limit of the corporations calculated under subsection (6).

(10) If 2 or more qualified corporations that are associated with each other do not file an agreement in accordance with subsection (9) within 60 days after notice in writing that an agreement under subsection (9) for a taxation year is required for the purpose of this Act has been forwarded to any of them by the Provincial Minister, the Provincial Minister shall allocate the maximum expenditure limit of the corporations calculated under subsections (5) to (8) to one or more of the corporations, and the maximum expenditure limit of each corporation for that taxation year is the amount, if any, allocated to it.

(11) If 2 or more corporations are associated or deemed to be associated with each other under this Act, only those associated corporations that are claiming an Alberta SR&ED tax credit in the taxation year during which they are associated ending in the same calendar year are the corporations that are associated with each other for the purposes of this Division.

(12) If the Provincial Minister is satisfied that

- (a) the separate existence of 2 or more qualified corporations in a taxation year is not solely for the purpose of carrying on the business of those corporations in the most effective manner, and
- (b) one of the main reasons for the separate existence of those corporations in that year is to increase the amount of the Alberta SR&ED tax credit that would otherwise be determined under this Act,

the Provincial Minister may direct that all of the corporations are deemed to be associated with each other for the purposes of this Division.

(13) If, in the opinion of the Provincial Minister, a qualified corporation has at any time entered into one or more sales, exchanges, declarations of trust or other transactions that

- (a) lack any substantial business purpose, other than increasing the Alberta SR&ED tax credit to which it or any qualified corporation is otherwise entitled, or
- (b) artificially increase the Alberta SR&ED tax credit that may be claimed by it or any qualified corporation,

the Provincial Minister may direct that all of those corporations are deemed to be associated with each other for the purposes of this Division.

(14) A direction made under subsection (12) or (13)

- (a) does not apply to a taxation year of any qualified corporation prior to the taxation year for which the direction is made, and
- (b) may be revoked by the Provincial Minister and, if revoked, does not apply to the taxation year to which the revocation relates or to any subsequent taxation year.

(15) Notwithstanding anything in this Division, if at any time (in this subsection referred to as the “particular time”) after December 31, 2008

- (a) control of a qualified corporation (in this subsection referred to as the “particular corporation”) has been acquired by a person, and
- (b) the Provincial Minister is satisfied that the result of the acquisition of control of the particular corporation is that the amount of the Alberta SR&ED tax credit to which the particular corporation, or any corporation or group of corporations with which it is associated in the calendar year in which the particular time falls, is entitled is greater than the amount of the Alberta SR&ED tax credit to which the particular corporation, or any corporation or group of corporations with which the particular corporation is associated in the calendar year in which the particular time falls, would have been entitled, had control of the corporation not been acquired,

the Provincial Minister may determine the amount of the Alberta SR&ED tax credit to which the particular corporation or any corporation or group of corporations with which it is

associated in the calendar year in which the particular time falls is entitled for taxation years that end in the same calendar year as that in which the particular time falls.

(16) Notwithstanding anything in this Division, if at any time after December 31, 2008, a qualified corporation (in this subsection referred to as the “particular corporation”), by reason of an amalgamation or otherwise,

- (a) has a taxation year that ends before the time at which it otherwise would have ended, or
- (b) has 2 or more taxation years ending in the same calendar year,

the Provincial Minister may determine the amount of Alberta SR&ED tax credit to which

- (c) the particular corporation,
- (d) any successor corporation formed on the amalgamation of the particular corporation with another corporation, or
- (e) any corporation with which the particular corporation was associated in the calendar year in which any of the taxation years described in clauses (a) and (b) of the particular corporation end,

is entitled for any of the taxation years of any of the corporations described in clauses (c), (d) and (e) that end in the same calendar year as any of the taxation years described in clauses (a) and (b) of the particular corporation.

Recapture

26.9(1) Where

- (a) a qualified corporation acquired a particular property from a person or partnership in a taxation year of the corporation or in any of the 20 preceding taxation years,
- (b) the cost, or a portion of the cost, of the particular property was an amount
 - (i) included in, or

- (ii) if the SR&ED qualified expenditure pool referred to in the definition of federal expenditures of the corporation were determined without reference to subsection 127(26) of the federal Act, that would be included in

eligible expenditures of the corporation at the end of any taxation year referred to in clause (a), and

- (c) in the year the corporation converts to commercial use, or disposes of, without having previously converted to commercial use, the particular property or another property that incorporates the particular property,

there shall be added to the corporation's tax otherwise payable under this Act for the year the lesser of

- (d) the amount that can reasonably be considered to have been received by the corporation as an Alberta SR&ED tax credit, or that would have been received by the corporation if the SR&ED qualified expenditure pool referred to in the definition of federal expenditures of the corporation were determined without reference to subsection 127(26) of the federal Act at the end of any taxation year referred to in clause (a) in respect of the particular property, and

- (e) the product of the ratio as defined in B in section 26.91(4) and 10% of

- (i) in the case where the particular property or the other property is disposed of to a person who deals at arm's length with the corporation,

- (A) the proceeds of disposition of the property if the property

- (I) is the particular property and is neither first term shared-use-equipment nor second term shared-use-equipment, or

- (II) is the other property,

- (B) 25% of the proceeds of disposition of the property if the property is the particular property,

is first term shared-use-equipment and is not second term shared-use-equipment, and

- (C) 50% of the proceeds of disposition of the property if the property is the particular property and is second term shared-use-equipment,

and

- (ii) in the case where the particular property or the other property is converted to commercial use or is disposed of to a person who does not deal at arm's length with the corporation,

- (A) the fair market value of the property at the time of its conversion or disposition if the property

- (I) is the particular property and is neither first term shared-use-equipment nor second term shared-use-equipment, or

- (II) is the other property,

- (B) 25% of the fair market value of the property at the time of its conversion or disposition if the particular property is first term shared-use-equipment and is not second term shared-use-equipment, and

- (C) 50% of the fair market value of the property at the time of its conversion or disposition if the particular property is second term shared-use-equipment.

(2) Where

- (a) a corporation acquired a particular property from a person or partnership in a taxation year or in any of the 20 preceding taxation years,
- (b) the cost of the particular property was an amount included in eligible expenditures of the corporation at the end of any taxation year referred to in clause (a),

- (c) all or part of that cost can reasonably be considered to have been the subject of an agreement made under subsection 127(13) of the federal Act by the corporation and another corporation (in this subsection referred to as the “transferee”), and
- (d) in the year, the corporation converts to commercial use, or disposes of without having converted to commercial use, the particular property or another property that incorporates the particular property,

there shall be added to the corporation’s tax otherwise payable under this Act for the year the lesser of

- (e) the amount that can reasonably be considered to have been received by the transferee as an Alberta SR&ED tax credit in respect of the property that was the subject of the agreement, and
- (f) the product of the ratio as defined in B in section 26.91(4) and the amount determined by the formula

$$10\% \times C - D$$

where

C is

- (i) where the particular property or the other property is disposed of to a person who deals at arm’s length with the corporation, the proceeds of disposition of that property, or
- (ii) in any other case, the fair market value of the particular property or the other property at the time of the conversion or disposition;

D is the amount, if any, added to the corporation’s tax payable under subsection (1) in respect of the particular property.

(3) Where, at any particular time in a taxation year, a purchaser is a corporation that converts to commercial use, or disposes of without having previously converted to commercial use, a property

- (a) that was acquired by the purchaser in circumstances described in section 26.91(2) or that is another property that incorporates a property acquired in such circumstances, and
- (b) that was first acquired, or that incorporates a property that was first acquired, by a corporation (in this subsection referred to as the “original user”) with which the purchaser did not deal at arm’s length at the time at which the purchaser acquired the property, in the original user’s taxation year that includes the particular time (on the assumption that the original user had such a taxation year) or in any of the original user’s 20 preceding taxation years,

there shall be added to the purchaser’s tax otherwise payable under this Act for the year the lesser of

- (c) the amount that can reasonably be considered to have been received by the original user as an Alberta SR&ED tax credit in respect of the property, and
- (d) the product of the ratio of the original user’s maximum expenditure limit for the taxation year in which the property was acquired to the greater of the maximum expenditure limit or eligible expenditures of the original user for that year and 10% of
 - (i) if the property or the other property is disposed of to a person who deals at arm’s length with the purchaser, the proceeds of disposition of that property, and
 - (ii) in any other case, the fair market value of the property or the other property at the time of the conversion or disposition.

General provisions

26.91(1) Where at any time a particular property, or a property that incorporates the particular property, ceases to be located in Alberta, the particular property or the property that incorporates the particular property is, for purposes of section 26.9, deemed to have been disposed of to a person who deals at arm’s length

with the corporation for proceeds of disposition equal to the fair market value of the property at that time.

(2) Section 26.9 does not apply to a corporation (in this subsection referred to as the “transferor”) that disposes of a property to a qualified corporation (in this subsection and section 26.9(3) referred to as the “purchaser”) that does not deal at arm’s length with the transferor, if the purchaser acquired the property in circumstances

- (a) whereby the property did not cease to be located in Alberta, and
- (b) where the cost of the property to the purchaser would have been an expenditure of the purchaser described in subclause 37(8)(a)(ii)(A)(III) or (B)(III) of the federal Act as it applies for the purposes of this Act but for subparagraph 2902(b)(iii) of the federal regulations.

(3) For the purpose of applying section 26.9(1) or (2) in respect of a corporation, or section 26.9(3) in respect of a purchaser and an original user, as the case may be (which corporation, purchaser or original user is, in this subsection, referred to as the “taxpayer”), the reference to “20” in that subsection is to be read as a reference to the number that is the lesser of

- (a) 20, and
- (b) the number of taxation years of the taxpayer that end after 2008.

(4) For the purposes of section 26.9, the amount that can reasonably be considered to have been included in a corporation’s Alberta SR&ED tax credit in respect of a particular property is equal to the amount determined by the formula

$$A \times B$$

where

A is the amount included in eligible expenditures of the corporation in respect of the cost of the property in the taxation year in which the property was acquired;

B is the ratio of the corporation's maximum expenditure limit for the taxation year in which the property was acquired to the greater of the maximum expenditure limit or eligible expenditures of the corporation for that year.

(5) For the purposes of subsection (4), if a qualified corporation included an amount in respect of the same property in eligible expenditures in more than one taxation year, it shall calculate the amount referred to in subsection (4) in respect of each taxation year, and the amount that can reasonably be considered to have been included in its Alberta SR&ED tax credit is the aggregate of the amounts so calculated for each of the taxation years in which an amount in respect of the same property was included.

8 Section 36 is amended by adding the following after subsection (1.1):

(1.11) Subsection (1.1) does not apply to a qualified corporation that is claiming an Alberta SR&ED tax credit under Division 3 of Part 6 for the taxation year.

8 Section 36 presently reads in part:

36(1) A return of a corporation in the prescribed form and containing the prescribed information shall be filed for each taxation year with the Provincial Minister within 6 months from the end of the taxation year by or on behalf of the corporation.

(1.1) Subsection (1) does not apply to the following corporations:

- (a) a corporation that is a registered charity throughout the taxation year;*
- (b) a corporation that*
 - (i) is a Canadian-controlled private corporation throughout the taxation year,*
 - (ii) has no permanent establishments outside Alberta at any time during the taxation year,*
 - (iii) has no taxable income for the taxation year before any of the amounts referred to in section 39(3)(a) are excluded or deducted for the year,*
 - (iv) is not entitled to the refund of any overpayment for the taxation year,*
 - (v) has gross revenues not exceeding \$500 000 as disclosed in its financial statements prepared for the taxation year,*

9 Section 37(1)(a) is amended by striking out “and” at the end of subclause (iii), by adding “and” at the end of subclause (iv) and by adding the following after subclause (iv):

- (v) the Alberta SR&ED tax credit under Division 3 of Part 6 to which the corporation is entitled for the year,

- (vi) *has no pool amounts available to be carried forward as defined in section 20(1),*
 - (vii) *files a return for the taxation year with the Minister of National Revenue under Part I of the federal Act,*
 - (viii) *in each taxation year that this Act applies to it, has taxable income or a loss that is the same as and that has been computed in the same manner as its taxable income or loss determined under the federal Act, and*
 - (ix) *does not receive payment under section 26.4 of any royalty tax credit instalments in respect of the taxation year;*
- (c) *a corporation that by virtue of the application of section 35 has no tax payable for the taxation year.*

9 Section 37(1) presently reads in part:

37(1) A corporation that has failed to file a return for a taxation year as and when required by this Act is liable to a penalty equal to the aggregate of

- (a) *an amount equal to 5% of the amount by which the aggregate of*
 - (i) *the tax for the year that was unpaid when the return was required to be filed, and*
 - (ii) *the amounts paid or applied to the corporation under section 26.4 for the year**exceeds the aggregate of*
 - (iii) *the royalty tax credit to which the corporation is entitled for the year, and*
 - (iv) *the amounts paid by the corporation under section 38(8) for the year on or before the day on which the return was required to be filed,*

10 Section 37.1(4) is amended by adding “or section 73.01” after “this section”.

11 Section 39(6)(a) is amended by adding “, 37.1 or 73.01” after “section 37”.

12 Section 41 is amended by adding the following after subsection (1):

(1.01) Notwithstanding subsection (1), the Provincial Minister shall not determine the amount of the Alberta SR&ED tax credit under Division 3 of Part 6 to which a corporation is entitled until after the time prescribed by the regulations.

13(1) Section 43 is amended

(a) in subsection (1)(b) by striking out “or” at the end of subclause (iv), by adding “or” at the end of subclause (v) and by adding the following after subclause (v):

(vi) is made as a consequence of the application of section 72.1.

10 Section 37.1(4) presently reads:

(4) Where, in an appeal under this Act, any penalty assessed by the Provincial Minister under this section is in issue, the burden of establishing the facts justifying the assessment of the penalty is on the Provincial Minister.

11 Section 39(6)(a) presently reads:

(6) If a corporation is required to pay a penalty, the corporation shall pay the penalty to the Provincial Minister together with interest at the prescribed rate computed,

(a) in the case of a penalty payable by reason of section 37, from the day on or before which the corporation's return under section 36 for the taxation year in respect of which the penalty is payable was required to be filed to the day of payment,

12 Section 41 presently reads in part:

41(1) The Provincial Minister shall, with all due dispatch after receipt of a return, examine the return and assess the tax under Part 5 for the year and the interest and penalties payable and shall determine

(a) the amounts of the refundable tax credits, if any, for the taxation year, and

(b) the amount of the refund, if any, to which a corporation is entitled pursuant to section 28 or 30 for the taxation year.

13 Section 43 presently reads in part:

(1) The Provincial Minister may at any time make an assessment, reassessment or additional assessment of tax for a taxation year, interest or penalties, if any, payable under this Act by a corporation, notify in writing any corporation by whom a return of income for a taxation year has been filed that no tax is payable for the year, or determine the corporation's entitlement to and the amount, if any, of a refundable tax credit for a taxation year, except that an assessment, reassessment or additional assessment may be made

(b) in subsection (1.02)(b) by striking out “or” at the end of subclause (iv), by adding “or” at the end of subclause (v) and by adding the following after subclause (v):

- (vi) the denial of a tax benefit from an avoidance transaction as described in section 72.1.

(c) by repealing subsection (1.2) and substituting the following:

(1.2) Notwithstanding subsection (1), if

- (a) a corporation files information under section 36.2(1) for a particular taxation year as a result of an assessment action, or
- (b) a corporation files an amended return or return under section 36.2(2) or (3) for a particular taxation year,

the Provincial Minister, in respect of the particular taxation year or any taxation year in which a loss of the particular taxation year may be deducted under subsection 41(2) or section 111 of the federal Act as it applies for the purposes of this Act, may, not later than the later of 12 months after the date on which the corporation files information, a return or an amended return referred to in clause (a) or (b) and the end of the normal reassessment period,

- (c) reassess, make additional assessments of or assess tax, interest or penalties,
- (d) notify in writing a corporation that filed a return under this Act for the year that no tax is payable for the year, or
- (e) determine the corporation’s entitlement to and the amount, if any, of a refundable tax credit.

(2) Subsection (1)(c) is deemed to have come into force on December 9, 1998.

after the corporation's normal reassessment period in respect of the year only if

- (b) the assessment, reassessment or additional assessment is made before the day that is 3 years after the end of the normal reassessment period for the corporation in respect of the year and*
 - (i) is required pursuant to section 44 or would be so required if the corporation had claimed an amount by filing the prescribed form referred to in that section on or before the day referred to in that section,*
 - (ii) is made as a consequence of the assessment or reassessment pursuant to this clause or section 44 of tax payable by another taxpayer,*
 - (iii) is made as a consequence of a transaction involving the corporation and a non-resident person with whom the corporation was not dealing at arm's length,*
 - (iv) is made as a consequence of a payment or reimbursement of any income or profits tax to or by the government of a country other than Canada or a government of a state, province or other political subdivision of any such country, or*
 - (v) is made as a consequence of a reduction under subsection 66(12.73) of the federal Act, as it applies for the purposes of this Act, of an amount purported to be renounced under section 66 of the federal Act.*

(1.02) Notwithstanding subsections (1) and (2), an assessment, reassessment or additional assessment to which subsection (1)(a) or (b) applies in respect of a corporation for a taxation year may be made after the corporation's normal reassessment period in respect of the year to the extent that, but only to the extent that, it can reasonably be regarded as relating to,

- (b) where subsection (1)(b) applies to the assessment, reassessment or additional assessment,*
 - (i) the assessment, reassessment or additional assessment to which subsection (1)(b)(i) applies,*

14 The following is added after section 43:

Deeming of federal amounts

43.01(1) The definitions in Division 3 of Part 6 of terms and expressions used in this section apply to this section.

(2) Where a corporation makes a claim for an Alberta SR&ED tax credit for a taxation year, for purposes of determining the eligible expenditures of the corporation for that year, the amount of federal expenditures of the corporation is deemed, for purposes of this section, to be the amounts included for

- (ii) *the assessment or reassessment referred to in subsection (1)(b)(ii),*
- (iii) *the transaction referred to in subsection (1)(b)(iii),*
- (iv) *the payment or reimbursement referred to in subsection (1)(b)(iv), or*
- (v) *the reduction referred to in subsection (1)(b)(v).*

(1.2) Notwithstanding subsection (1), not more than 12 months after

- (a) *a corporation files information under section 36.2(1) for a particular taxation year as a result of an assessment action, or*
- (b) *a corporation files an amended return or return under section 36.2(2) or (3) for a particular taxation year,*

the Provincial Minister, in respect of the particular taxation year or any taxation year in which a loss of the particular taxation year may be deducted under subsection 41(2) or section 111 of the federal Act as it applies for the purposes of this Act, may

- (c) *reassess, make additional assessments of or assess tax, interest or penalties,*
- (d) *notify in writing a corporation that filed a return under this Act for the year that no tax is payable for the year, or*
- (e) *determine the corporation's entitlement to and the amount, if any, of a refundable tax credit.*

14 Deeming of federal amounts.

purposes of the federal Act in the SR&ED qualified expenditure pool of the corporation at the end of its taxation year.

(3) A corporation is bound by any determination made by the Minister of National Revenue of the SR&ED qualified expenditure pool at the end of a taxation year under the federal Act in relation to a federal assessment action with respect to the corporation for any taxation year or by a decision of the Tax Court of Canada, the Federal Court of Canada or the Supreme Court of Canada where such federal assessment action or decision is final and all rights of objection and appeal have expired.

(4) Where at any time, in relation to a federal assessment action undertaken by the Minister of National Revenue with respect to a corporation for any taxation year, the conclusion of the Minister of National Revenue or the Tax Court of Canada, the Federal Court of Canada or the Supreme Court of Canada on an appeal from the federal assessment action, results in the SR&ED qualified expenditure pool at the end of a corporation's taxation year under the federal Act being determined to be different than the amount used by the corporation in determining its eligible expenditures for the purpose of claiming an Alberta SR&ED tax credit for that taxation year, the Provincial Minister may, notwithstanding section 43(1), (1.02), (2) and (3), assess the tax, interest, penalties or other amounts payable, or determine an amount deemed to have been paid or to have been paid as an overpayment under this Act by the corporation for that taxation year, but only to the extent that the assessment can reasonably be regarded as relating to the amount of eligible expenditures of the corporation for that taxation year and the entitlement of the corporation to an Alberta SR&ED tax credit for that taxation year.

(5) If a corporation files information with respect to the federal assessment action under subsection (4), the Provincial Minister may assess the tax, interest, penalties or other amounts payable, or determine an amount deemed to have been paid or to have been paid as an overpayment under this Act by the corporation in relation to the federal assessment action for any taxation year, not more than 12 months after the corporation files the information with the Provincial Minister.

15 Section 48 is amended by adding the following after subsection (6):

(6.1) If

- (a) the Provincial Minister becomes aware that there has been an assessment action in respect of a taxation year of a corporation before the corporation files information under section 36.2(1) in respect of that assessment action, and
- (b) the Provincial Minister is, in respect of that taxation year, required to respond, in accordance with subsection (4)(b), to a notice of objection received from the corporation,

the Provincial Minister may, at the same time as the Provincial Minister responds pursuant to subsection (4)(b), exercise the powers under section 43(1.2)(c), (d) and (e) in respect of the taxation year.

16 Section 62 is amended by striking out “In sections 63 to 65” and substituting “In sections 63 to 65.1”.

15 Section 48(6) presently reads:

(6) The limitations imposed under section 43(1) and (1.02) do not apply to a reassessment made under subsection (4).

16 Section 62 presently reads:

62 In sections 63 to 65,

- (a) “authorized person” means a person authorized by the Provincial Minister for the purposes of sections 63 to 65;*
- (b) “documents” includes money, securities and records;*
- (c) “dwelling-house” means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence and includes
 - (i) a building within the curtilage of a dwelling-house that is connected to it by a doorway or by a covered and enclosed passageway, and*
 - (ii) a unit that is designed to be mobile and to be used as a permanent or temporary residence that is being used as a permanent or temporary residence;**
- (d) “judge” means a judge of the court.*

17 Section 64 is amended

- (a) by repealing subsection (2);**
- (b) by repealing subsection (8).**

18 Section 65.1 is amended by renumbering it as section 65.1(1) and by adding the following after subsection (1):

- (2) Section 231.7 of the federal Act applies for the purposes of this Act except that subsection (1) of this section applies instead of subsection 231.7(1) of the federal Act.**

19 Section 72.1 is amended

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

17 Section 64 presently reads in part:

(2) If a person is served with a notice to provide or produce information or documents under subsection (1) and the person does not provide or produce the information or documents in accordance with the notice, the Provincial Minister, on 2 days' notice to the person, may apply to a judge and the judge may order the person to provide or produce the information or documents, subject to the conditions the judge considers appropriate, if the judge is satisfied that

- (a) the information or documents are in the possession of or under the control of the person, and*
- (b) the information or documents are relevant to the administration of this Act.*

(8) If information or documents are produced by a person under subsection (1) or (2), an authorized person, on giving a receipt for them, may remove the information or documents for the purpose of making copies of or extracts from them.

18 Section 65.1 presently reads:

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.*

19 Section 72.1(3) and (6) presently read:

- (3) An avoidance transaction is any transaction*

(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 to have been undertaken or arranged primarily for bona fide purposes other than for one or more of the following:

- (c) to obtain the tax benefit;
- (d) 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;
- (e) to increase a refund of tax, or of another amount in respect of tax, under any other federal or provincial Act or regulation.

(3.1) 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 Act or regulation of any other jurisdiction 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,

- (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,*
 - (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

or

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

(b) in subsection (6) by striking out “under section 72.2(2)”.

(2) Subsection (1)(a) applies to transactions undertaken or arranged after December 31, 1999.

20(1) The following is added before section 73.1:

Third party civil penalties

73.01(1) The definitions in subsection 163.2(1) of the federal Act apply for the purposes of this section.

(2) Every person who makes or furnishes, participates in the making of or causes another person to make or furnish a statement that the person knows, or would reasonably be expected to know but for circumstances amounting to culpable conduct, is a false statement that could be used by another person (in subsections (6) and (15) referred to as the “other person”) for a purpose of this Act is liable to a penalty in respect of the false statement.

(3) The penalty to which a person is liable under subsection (2) in respect of a false statement is

- (a) where the statement is made in the course of a planning activity or a valuation activity, the amount determined by the formula

(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.*

(6) *Where with respect to a transaction*

(a) *a notice of assessment, reassessment or additional assessment involving the application of subsection (2) with respect to the transaction has been sent to a corporation, or*

(b) *a notice of determination pursuant to section 41(1.11) has been sent to a corporation with respect to the transaction,*

any corporation, other than a corporation referred to in clause (a) or (b), is entitled, within 180 days after the day of mailing of the notice under section 72.2(2), to request in writing that the Provincial Minister make an assessment, reassessment or additional assessment applying subsection (2) or make a determination applying section 41(1.11) with respect to that transaction.

20 Third party civil penalties.

A x B

where

A is the greater of \$1000 and the total of the person's gross entitlements, at the time at which the notice of assessment of the penalty is sent to the person, in respect of the planning activity or valuation activity, and

B is the Alberta allocation factor of the person for the taxation year in which the false statement is used for a purpose of this Act,

and

(b) in any other case, \$1000.

(4) Every person who makes, or participates in, assents to or acquiesces in the making of, a statement to, by or on behalf of another person (in this subsection and subsections (5) and (6), (12)(c) and (15) referred to as the "other person") that the person knows, or would reasonably be expected to know but for circumstances amounting to culpable conduct, is a false statement that could be used by or on behalf of the other person for a purpose of this Act is liable to a penalty in respect of the false statement.

(5) The penalty to which a person is liable under subsection (4) in respect of a false statement is the greater of

(a) \$1000, and

(b) the lesser of

(i) the penalty to which the other person would be liable under section 37.1(1) if the other person made the statement in a return filed for the purposes of this Act and knew that the statement was false, and

(ii) the amount determined by the formula

A x B

where

- A is the total of \$100 000 and the person's gross compensation, at the time at which the notice of assessment of the penalty is sent to the person, in respect of the false statement that could be used by or on behalf of the other person;
- B is the Alberta allocation factor of the person for the taxation year in respect of which the penalty under section 37.1(1) would be determined.

(6) For the purposes of subsections (2) and (4), a person (in this subsection and in subsection (7) referred to as the "advisor") who acts on behalf of the other person is not considered to have acted in circumstances amounting to culpable conduct in respect of the false statement referred to in subsection (2) or (4) solely because the advisor relied, in good faith, on information provided to the advisor by or on behalf of the other person or, because of such reliance, failed to verify, investigate or correct the information.

(7) Subsection (6) does not apply in respect of a statement that an advisor makes or participates in, assents to or acquiesces in the making of in the course of an excluded activity.

(8) For the purpose of applying this section, other than subsections (4) and (5),

- (a) where a person makes or furnishes, participates in the making of or causes another person to make or furnish, 2 or more false statements, the false statements are deemed to be one false statement if the statements are made or furnished in the course of
 - (i) one or more planning activities that are in respect of a particular arrangement, entity, plan, property or scheme, or
 - (ii) a valuation activity that is in respect of a particular property or service,

and

- (b) for greater certainty, a particular arrangement, entity, plan, property or scheme includes an arrangement, an entity, a plan, a property or a scheme in respect of which

- (i) an interest is required to have, or has, an identification number issued under section 237.1 of the federal Act that is the same number as the number that applies to each other interest in the property,
- (ii) a selling instrument in respect of flow-through shares is required to be filed with the federal Minister because of subsection 66(12.68) of the federal Act, or
- (iii) one of the main purposes for a person's participation in the arrangement, entity, plan or scheme, or a person's acquisition of the property, is to obtain a tax benefit.

(9) For the purposes of this section, a person is not considered to have made or furnished, or participated in, assented to or acquiesced in the making of, a false statement solely because the person provided clerical services, other than bookkeeping services, or secretarial services with respect to the statement.

(10) Notwithstanding subsection (6) and section 37.1(4), a statement as to the value of a property or a service (which value is in this subsection referred to as the "stated value"), made by the person who opined on the stated value or by a person in the course of an excluded activity is deemed to be a statement that the person would reasonably be expected to know, but for circumstances amounting to culpable conduct, is a false statement if the stated value is

- (a) less than the product obtained when the percentage as prescribed under the federal regulations for the property or service is multiplied by the fair market value of the property or service, or
- (b) greater than the product obtained when the percentage as prescribed under the federal regulations for the property or service is multiplied by the fair market value of the property or service.

(11) Subsection (10) does not apply to a person in respect of a statement as to the value of a property or a service if the person establishes that the stated value was reasonable in the circumstances and that the statement was made in good faith

and, where applicable, was not based on one or more assumptions that the person knew or would reasonably be expected to know, but for circumstances amounting to culpable conduct, were unreasonable or misleading in the circumstances.

(12) For the purposes of applying this section,

- (a) where a person is assessed a penalty that is referred to in subsection (2) the amount of which is based on the person's gross entitlements at any time in respect of a planning activity or a valuation activity and another assessment of the penalty is made at a later time,
 - (i) if the person's gross entitlements in respect of the activity are greater at that later time, the assessment of the penalty made at that later time is deemed to be an assessment of a separate penalty, and
 - (ii) in any other case, the notice of assessment of the penalty sent before that later time is deemed not to have been sent,
- (b) a person's gross entitlements at any time in respect of a planning activity or a valuation activity, in the course of which the person makes or furnishes, participates in the making of or causes another person to make or furnish a false statement, shall exclude the total of all amounts each of which is the amount of a penalty (other than a penalty the assessment of which is deemed to be void because of subsection (13)) determined under subsection (3)(a) in respect of the false statement for which notice of the assessment was sent to the person before that time, and
- (c) where a person is assessed a penalty that is referred to in subsection (4), the person's gross compensation at any time in respect of the false statement that could be used by or on behalf of the other person shall exclude the total of all amounts each of which is the amount of a penalty (other than a penalty the assessment of which is deemed to be void because of subsection (13)) determined under subsection (5) to the extent that the false statement was used by or on behalf of that other person and for which

notice of the assessment was sent to the person before that time.

(13) For the purposes of this Act, if an assessment of a penalty that is referred to in subsection (2) or (4) is vacated, the assessment is deemed to be void.

(14) A person who is liable at any time to a penalty under both subsections (2) and (4) in respect of the same false statement is liable to pay a penalty that is not more than the greater of

- (a) the total amount of the penalties to which the person is liable at that time under subsection (2) in respect of the statement, and
- (b) the total amount of the penalties to which the person is liable at that time under subsection (4) in respect of the statement.

(15) Where an employee (other than a specified employee or an employee engaged in an excluded activity) is employed by the other person referred in subsections (2) and (4),

- (a) subsections (2) to (5) do not apply to the employee to the extent that the false statement could be used by or on behalf of the other person for a purpose of this Act, and
- (b) the conduct of the employee is deemed to be that of the other person for the purposes of applying section 37.1(1) to the other person.

(2) This section applies to statements made after this section comes into force.

21 Section 75 is amended

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

- (h) to a fine of not less than 50% and not more than 200% of the amount of tax sought to be evaded, or

(b) by repealing subsection (1.1)(g) and substituting the following:

21 Section 75 presently reads in part:

75(1) A person who

(h) to a fine of not more than 200% of the tax sought to be evaded, or

(1.1) Every person that obtains or claims a refund or credit under this Act to which a corporation or any other person is not entitled or obtains or claims a refund or credit under this Act in an amount that

- (g) a fine of not less than 50% and not more than 200% of the amount by which the amount of the refund or credit obtained or claimed exceeds the amount, if any, of the refund or credit to which the corporation or other person is entitled, or

22 Section 76 is amended

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

Offences

76(1) A person who fails to file a return as and when required by this Act, who fails to comply with section 61, 64 or 68 or who fails to comply with an order under section 65.1 is guilty of an offence.

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

(3) A person guilty of an offence under subsection (1) is liable, in addition to any penalty otherwise provided, to a fine of not less than \$1000 and not more than \$25 000 or to imprisonment for a term not exceeding 12 months, or to both a fine and imprisonment.

23 The *Alberta Corporate Tax Amendment Act, 2007* is amended by repealing section 3(b).

is greater than the amount to which the corporation or other person is entitled

- (g) a fine of not more than 200% of the amount by which the amount of the refund or credit obtained or claimed exceeds the amount, if any, of the refund or credit to which the corporation or other person is entitled, or*

22 Section 76 presently reads in part:

76(1) A person who fails to file a return or to provide or produce information or a document as and when required by this Act or the regulations is guilty of an offence.

(3) A person guilty of an offence under subsection (1) is liable to a fine in an amount determined by the judge for each day of default.

23 Amends chapter 25 of the Statutes of Alberta, 2007. Sections 3 and 11 presently read:

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).

11 Section 3 comes into force on Proclamation.

