

2012 Bill 9

First Session, 28th Legislature, 61 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 9

ALBERTA CORPORATE TAX AMENDMENT ACT, 2012

THE PRESIDENT OF TREASURY BOARD AND MINISTER OF FINANCE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 9

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2012

ALBERTA CORPORATE TAX AMENDMENT ACT, 2012

(Assented to , 2012)

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 1(2) is amended by adding the following after
clause (g.01):

(g.02) “Quebec Act” means the *Taxation Act* (Quebec) and
includes any rules of application that are contained in
any Act of the Parliament of Quebec that amends the
Taxation Act (Quebec);

3(1) Section 4.02(6) is amended by adding the following after
clause (c):

(d) the amount of any Alberta SR&ED tax credit as defined in
section 26.6 that is paid to the corporation in the taxation
year.

(2) This section is deemed to have come into force on January
1, 2009.

Explanatory Notes

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

2 Definition added.

3 Section 4.02(6) presently reads:

(6) For the purposes of determining a corporation's Canadian tax results in a taxation year that is a functional currency year of the corporation, the following amounts shall be converted to the functional currency at the average exchange rate for the year determined in accordance with the regulations:

(a) the corporation's business limit for the year;

(b) the corporation's maximum expenditure limit for the year;

(c) the dollar amounts referred to in section 24(2.1).

4(1) Section 8 is amended by adding the following after subsection (2.02):

(2.03) Where a corporation has deducted an amount pursuant to paragraph 20(7)(c) of the federal Act in computing its income or loss for a taxation year for the purposes of the federal Act, the corporation must deduct the same amount for the year for the purposes of this Act pursuant to that provision as made applicable by this Act.

(2.04) If, in computing its income or loss for its last taxation year ending before the coming into force of subsection (2.03) (in this subsection referred to as the “particular year”), a corporation deducted an amount pursuant to paragraph 20(7)(c) of the federal Act as it applied for the purposes of this Act that was higher than the amount deducted pursuant to paragraph 20(7)(c) of the federal Act in computing its income or loss for the purposes of the federal Act for the particular year,

- (a) in computing its income or loss for the immediately following taxation year, the amount that shall be included by virtue of paragraph 12(1)(e) of the federal Act as it applies for the purposes of this Act is the amount deducted by the corporation pursuant to paragraph 20(7)(c) of the federal Act in computing its income or loss for the purposes of the federal Act for the particular year, and
- (b) in computing its income or loss for the immediately following taxation year and for each of the 4 taxation years following that year, the corporation shall include an amount in income equal to 1/5 of the difference between the amount deducted pursuant to paragraph 20(7)(c) of the federal Act in the computation of income or loss for the purposes of the federal Act for the particular year and the amount deducted pursuant to paragraph 20(7)(c) of the federal Act as it applied for the purposes of this Act in the computation of income or loss for the purposes of this Act for the particular year.

(2) Subsection (1) applies to taxation years ending after the coming into force of this section.

4 Section 8(2.02) presently reads:

(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 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.*

5(1) Section 26.6 is amended

(a) in subsection (1)

(i) in clause (b) by striking out “section 26.7(1)” and substituting “section 26.7(1)(a) or (1.1)”;

(ii) by repealing clause (e) and substituting the following:

(e) “federal investment tax credit” means an amount included in the investment tax credit of a corporation for a taxation year pursuant to paragraphs (a.1) and (e) of the definition of investment tax credit in subsection 127(9) of the federal Act as it applies for federal purposes, but does not include amounts included in respect of expenditures on scientific research and experimental development carried out before January 1, 2009;

(b) by repealing subsection (2) and substituting the following:

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

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

where

- A is the sum of those amounts included in federal expenditures of the corporation that are in respect of scientific research and experimental development carried out in Alberta after 2008,
- B is the amount, if any, included in the sum 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, and

5 Section 26.6 presently reads in part:

26.6(1) In this Division,

- (b) “Alberta SR&ED tax credit” means the scientific research and experimental development tax credit calculated under section 26.7(1);*
- (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;*

(2) The eligible expenditures of a qualified corporation for a taxation year, including a year in which the corporation does not incur scientific research and experimental development expenditures in Alberta, 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, in the taxation year, of*
 - (a) government assistance, other than an Alberta SR&ED tax credit, or*
 - (b) a contract payment*

E is the amount of a repayment, in the taxation year, of

- (a) government assistance, other than an Alberta SR&ED tax credit, or
- (b) a 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 that can reasonably be considered to relate to amounts referred to in the definition of A in the taxation year or any preceding taxation year.

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

(3) For the purposes of determining a corporation's eligible expenditures for a taxation year, the Alberta proxy amount is, subject to the limits on the calculation of the prescribed proxy amount in section 2900 of the federal regulations as it applies for the purposes of this Act, 65% of the salaries and wages used in the calculation of the prescribed proxy amount included in the federal expenditures of the corporation for the taxation year that were paid in respect of scientific research and experimental development carried out in Alberta.

(4) Amounts included in the calculation of A in subsection (2) may include an amount transferred to the corporation pursuant to an agreement filed under subsection 127(13) of the federal Act only if the amount would otherwise have been included in federal expenditures of the corporation or the transferor corporation for the same taxation year and was in respect of scientific research and experimental development carried out in Alberta after 2008.

(2) This section is deemed to have come into force on January 1, 2009.

6(1) Section 26.7 is amended

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

referred to in paragraphs (e.1) and (e.2) in the definition of investment tax credit in subsection 127(9) of the federal Act that can reasonably be considered to relate to amounts included in the definition of A in the taxation year or any preceding taxation year.

(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.

6 Section 26.7 presently reads:

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

Tax credit deduction

26.7(1) For taxation years ending on or before March 31, 2012,

- (a) a qualified corporation is entitled to an Alberta SR&ED tax credit in a taxation year equal to 10% of the lesser of
 - (i) the corporation's eligible expenditures for the taxation year, and
 - (ii) the corporation's maximum expenditure limit for the taxation year,
- (b) if, from the tax otherwise payable under the federal Act for the immediately preceding taxation year, the corporation deducted an amount pursuant to subsection 127(5) of the federal Act, or was deemed to have deducted an amount pursuant to section 26.8(17), it must pay the portion of the amount deducted pursuant to subsection (2), or applied to any amount owing or paid to the corporation pursuant to subsection (4) for the 2009, 2010, 2011 or 2012 taxation years equal to 10% of the amount of H where H is the aggregate of the following amounts:
 - (i) if the amount that was deducted pursuant to subsection 127(5) of the federal Act or was deemed to have been deducted pursuant to section 26.8(17) included an amount included in the federal investment tax credit of the corporation for the immediately preceding taxation year, the amount calculated by the formula

$$(P + Q) \times Y/Z$$

where

P is the amount calculated by the formula $R \times 35\%$,

Q is the amount calculated by the formula $S \times 20\%$,

R is the lesser of T and U,

S is the lesser of V and W,

- (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 Provincial Minister does not receive 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.*

T is the lesser of

- (A) the amount of eligible expenditures for the immediately preceding taxation year less the amount of the Alberta SR&ED tax credit calculated under clause (a) for that year, and
- (B) the amount of the maximum expenditure limit for the immediately preceding taxation year less the amount of the Alberta SR&ED tax credit calculated under clause (a) for that year,

U is the product of the expenditure limit of the corporation as calculated under subsection 127(10.2) of the federal Act or allocated to the corporation in accordance with subsection 127(10.3) of the federal Act for the immediately preceding taxation year and the ratio of eligible expenditures for that year less the Alberta SR&ED tax credit for that year calculated under clause (a) to federal expenditures of the corporation for that year,

V is the greater of

- (A) the amount of eligible expenditures for the immediately preceding taxation year less
 - (I) the amount of the Alberta SR&ED tax credit calculated under clause (a) for that year, and
 - (II) U,
- and

- (B) zero,

W is the greater of

- (A) the amount of the maximum expenditure limit for the immediately preceding taxation year less

(I) the amount of the Alberta SR&ED tax credit calculated under clause (a) for that year, and

(II) U,

and

(B) zero,

Y is the amount of federal investment tax credits for the immediately preceding taxation year that was included in an amount that, from the tax otherwise payable under the federal Act for that year, was deducted by the corporation pursuant to subsection 127(5) of the federal Act or was deemed to have been deducted pursuant to section 26.8(17), and

Z is the aggregate of the federal investment tax credits for the immediately preceding taxation year and amounts included in investment tax credits for that year pursuant to paragraphs (e.1) and (e.2) of the definition of investment tax credit in subsection 127(9) of the federal Act, and

(ii) the aggregate of amounts calculated under subsection (1.2)(a),

and

(c) for purposes of subsections (2) to (5), if the amount calculated under clause (a) is greater than the amount calculated under clause (b), the Alberta SR&ED tax credit for the year is deemed to be reduced by the amount calculated under clause (b).

(1.1) For taxation years ending after March 31, 2012, a qualified corporation is entitled to an Alberta SR&ED tax credit in a 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.

(1.2) For purposes of subsection (1)(b)(ii), where

- (a) an amount deducted by the corporation from the tax otherwise payable under the federal Act for the immediately preceding taxation year pursuant to subsection 127(5) of the federal Act included an amount included in the federal investment tax credit of the corporation for an earlier taxation year (in this subsection referred to as the "particular year") that can reasonably be considered to relate to an amount referred to in the definition of A in section 26.6(2) for the particular year, or
- (b) the corporation was deemed to have deducted an amount from the tax otherwise payable under the federal Act for the immediately preceding taxation year pursuant to section 26.8(17) that included an amount included in the federal investment tax credit of the corporation for the particular year,

a separate calculation using the formula in subsection (1)(b)(i) shall be made for each particular year in which an amount that included an amount included in the federal investment tax credit of the corporation for the particular year was, from the tax otherwise payable under the federal Act by the corporation for the immediately preceding taxation year, deducted by the corporation pursuant to subsection 127(5) of the federal Act or deemed to have been deducted pursuant to section 26.8(17), and for each calculation

- (c) other than the amount of Y, a reference to the amount or value of eligible expenditures, Alberta SR&ED tax credit, maximum expenditure limit, expenditure limit as determined under subsection 127(10.2) or (10.3) of the federal Act, federal investment tax credit and an amount included in the investment tax credit for that year pursuant to paragraphs (e.1) and (e.2) of the definition of investment tax credit in subsection 127(9) of the federal Act is a reference to that amount or value for the particular year, and

- (d) Y is the amount of the federal investment tax credit of the corporation for the particular year that was included in an amount that was, from tax otherwise payable under the federal Act for the immediately preceding taxation year, deducted by the corporation pursuant to subsection 127(5) of the federal Act or deemed to have been deducted pursuant to section 26.8(17).

(1.3) For the purposes of subsections (1) and (1.2), if an amount included in the federal investment tax credit of a corporation for a taxation year (in this subsection referred to as the “originating year”) is included in an amount that was, from the tax otherwise payable under the federal Act for a preceding taxation year, deducted by the corporation pursuant to subsection 127(5) of the federal Act or deemed to have been deducted pursuant to section 26.8(17), for the purposes of calculating the amount of H in this section, any such amount is deemed to have been deducted from the tax otherwise payable for the originating year.

- (b) **in subsection (5) by adding** “the later of the balance-due day for the year and” **after** “corporation on”;
- (c) **in subsection (6) by striking out** “12 months” **and substituting** “15 months”.

(2) This section is deemed to have come into force on January 1, 2009.

7(1) Section 26.71 is repealed and the following is substituted:

Recapture of Alberta SR&ED credit

26.71(1) A corporation that, in a taxation year ending on or before March 31, 2012, from the tax otherwise payable for the immediately preceding taxation year under the federal Act, deducted an amount pursuant to subsection 127(5) of the federal Act or was deemed to have deducted an amount pursuant to section 26.8(17) must

- (a) calculate an amount under section 26.7(1)(b) for the taxation year, and

7 Section 26.71 presently reads:

26.71(1) A corporation that received a federal investment tax credit in the immediately preceding taxation year in respect of federal expenditures of the corporation incurred in Alberta and in respect of which an amount could reasonably be considered to have been included in determining the corporation's Alberta SR&ED tax credit for a prior year must determine an amount under section 26.6(2) for the taxation year.

(2) Where the amount determined under section 26.6(2) for a taxation year by a corporation referred to in subsection (1) is negative (in this section referred to as the "adjustment"), an amount equal to 10% of the adjustment is deemed to be an amount owing by

- (b) file on or before the prescribed time and in the prescribed form the results of that calculation

if the amount deducted pursuant to subsection 127(5) of the federal Act or deemed to have been deducted pursuant to section 26.8(17) included an amount that was in respect of federal expenditures of the corporation that could reasonably be considered to have been included in calculating the corporation's Alberta SR&ED tax credit for any taxation year.

(2) The amount by which the amount calculated under section 26.7(1)(b) exceeds the amount calculated under section 26.7(1)(a) is deemed to be an amount owing by the corporation to the Crown in right of Alberta, which is payable to the Provincial Minister on or before the corporation's balance-due day for the taxation year.

(2) This section is deemed to have come into force on January 1, 2009 and applies to taxation years ending on or before March 31, 2012.

8(1) Section 26.8 is amended by adding the following after subsection (16):

(17) For purposes of determining the amounts under section 26.7(1) or (1.2) for any taxation year,

- (a) where at the end of the year, the corporation
 - (i) had taxes payable for the year or had paid taxes for any of the 3 immediately preceding taxation years under the federal Act, and
 - (ii) had an amount that could have been deducted from those taxes payable pursuant to subsection 127(5) of the federal Act

the corporation is deemed to have deducted that amount to reduce taxes payable under the federal Act for the year or to have obtained a refund of the taxes paid under the federal Act for any of the 3 immediately preceding taxation years to the fullest extent possible starting with

the corporation to the Crown in right of Alberta, which is payable to the Provincial Minister on or before the corporation's balance-due day for the current taxation year.

8 Section 26.8(17) is consequential to the repeal and replacement of section 26.7(1).

the earliest taxation year in which the amount could first have been deducted, and

- (b) where, in the opinion of the Provincial Minister, the corporation has deducted an amount in computing income or loss for a taxation year (in this clause referred to as the “particular year”) under the federal Act rather than deducting an amount that it could have deducted pursuant to subsection 127(5) of the federal Act from the taxes that would otherwise have been payable under the federal Act for the particular year, and one of the main reasons for doing so was to reduce the amount of Y referred to in section 26.7(1) or (1.2) for purposes of calculating the amount of H under section 26.7(1)(b) in a subsequent year, the corporation is deemed to have deducted the amount from the tax that would otherwise have been payable under the federal Act for the particular year had the corporation computed its income or loss for that year without making that deduction.

(2) This section is deemed to have come into force on January 1, 2009.

9(1) Section 34 is amended

- (a) **in subsection (1) by striking out** “subsections (2) and (3)” **and substituting** “subsections (1.1) to (3)”;

- (b) **by adding the following after subsection (1):**

(1.1) Where a corporation has deducted an amount pursuant to paragraph 138(3)(a) of the federal Act in computing its income or loss for a taxation year for the purposes of the federal Act, the corporation must deduct the same amount for the year for the purposes of this Act pursuant to that provision as made applicable by this Act.

(1.2) If, in computing its income or loss for its last taxation year ending before the coming into force of subsection (1.1) (in this subsection referred to as the “particular year”), a corporation deducted an amount pursuant to paragraph 138(3)(a) of the federal Act as it applied for the purposes of this Act that was higher than the amount deducted pursuant to

9 Section 34 presently reads in part:

34(1) Subject to subsections (2) and (3), the rules provided in sections 138, 138.1, 140 and 141.1 of the federal Act apply in computing the taxable income of insurance corporations for the purposes of this Act.

(6) Section 141 of the federal Act, as re-enacted by section 40 of chapter 19, Statutes of Canada 2000, applies after December 15, 1998.

paragraph 138(3)(a) of the federal Act in computing its income or loss for the purposes of the federal Act for the particular year,

- (a) in computing its income or loss for the immediately following taxation year, the amount that shall be included by virtue of paragraph 138(4)(a) of the federal Act as it applies for the purposes of this Act is the amount deducted by the corporation pursuant to paragraph 138(3)(a) of the federal Act in computing its income or loss for the purposes of the federal Act for the particular year, and
- (b) in computing its income or loss for the immediately following taxation year and for each of the 4 taxation years following that year, the corporation shall include an amount in income equal to 1/5 of the difference between the amount deducted pursuant to paragraph 138(3)(a) of the federal Act in the computation of income or loss for the purposes of the federal Act for the particular year and the amount deducted pursuant to paragraph 138(3)(a) of the federal Act as it applied for the purposes of this Act in the computation of income or loss for the purposes of this Act for the particular year.

(2) Subsection (1) applies to taxation years ending after the coming into force of this section.

10(1) Section 43 is amended by adding the following after subsection (6):

(6.1) For the purposes of the definition of “balance” in subsection (6), a balance is deemed to include the values of H, P, Q, Y and Z as defined in section 26.7(1) and (1.2).

(2) This section is deemed to have come into force on January 1, 2009.

11 Section 48(4.1) is repealed and the following is substituted:

10 Section 43(6) presently reads:

(6) For the purposes of subsection (5), a “balance” of a corporation for a taxation year is the income, taxable income, taxable income earned in Canada, amount taxable in Alberta or any loss of the corporation for the year or the tax or other amount payable by, any amount refundable to or any amount deemed to have been paid or to have become payable by, the corporation for the year.

11 Section 48(4.1) presently reads:

(4.1) When the Provincial Minister is served with a notice of objection to a determination, assessment, reassessment or additional

(4.1) Where the Provincial Minister is served with a notice of objection and the Provincial Minister designates

- (a) the determination, assessment, reassessment or additional assessment that gave rise to the notice of objection, or
- (b) the notice of objection

as being based on a federal assessment action, the Provincial Minister's duties under subsection (4) do not arise until all rights of appeal in respect of the federal assessment action have been exhausted or extinguished.

12 Section 50 is amended

(a) in subsection (1) by striking out "A corporation" and substituting "Subject to subsection (1.11), a corporation";

(b) by adding the following after subsection (1.1):

(1.11) Where the Provincial Minister has made a designation pursuant to section 48(4.1), the corporation is not entitled to appeal to the court if the Provincial Minister has confirmed or issued

- (a) an assessment, reassessment or additional assessment of tax, interest or penalties,
- (b) a determination or redetermination of a loss, or
- (c) a notice that no tax is payable,

that deals with the same issues in the same manner as a federal assessment action in respect of which, or which results after, all of a corporation's rights of appeal under the federal Act have been exhausted or extinguished.

assessment that the Provincial Minister has designated as being based on a federal assessment action, the Provincial Minister's duties under subsection (4) do not arise until all rights of appeal in respect of the federal assessment action have been exhausted or extinguished.

12 Section 50(1) presently reads:

50(1) A corporation that has served notice of objection to an assessment in accordance with section 48 may appeal to the court to have the assessment vacated or varied after

- (a) the Provincial Minister has confirmed the assessment or reassessed,*
- (b) in the case of a notice of objection to a determination, assessment, reassessment or additional assessment that the Provincial Minister has designated as being based on a federal assessment action, 90 days have elapsed after all rights of appeal in respect of the federal assessment action have been exhausted or extinguished and the Provincial Minister has not notified the corporation that the Provincial Minister has vacated or confirmed the determination, assessment, reassessment or additional assessment or has reassessed, or*
- (c) in the case of any other notice of objection, 90 days have elapsed after service of the notice of objection and the Provincial Minister has not notified the corporation that the Provincial Minister has vacated or confirmed the assessment or has reassessed,*

but no appeal under this section may be instituted after the expiration of 90 days from the day notice that the Provincial Minister has confirmed the assessment or reassessed was mailed to the corporation under section 48.

13 Section 56(1) is amended by adding the following after clause (f):

- (g) respecting the collection, use and disclosure of information, including personal information, under this Act.

14 Section 77(5)(a) is amended by adding the following after subclause (v):

- (vi) to be used solely for the purposes of administering section 14 of the *Auditor General Act*;
- (vii) to be used solely for the purposes of administering the *Insurance Act*;

15(1) Section 85 is amended

(a) by repealing subsection (4.2) and substituting the following:

(4.2) Notwithstanding subsection (4.1) and sections 6.1 and 6.2, if a corporation that

13 Regulation-making authority added.

14 Section 77(5)(a) presently reads:

(5) Tax information may be communicated as follows:

- (a) to a person employed or engaged by the Government of Alberta if the tax information is*
 - (i) statistical in nature and to be used solely in accordance with section 3 of the Office of Statistics and Information Act;*
 - (ii) to be used solely by an employee under the administration of the Registrar of Corporations or the Registrar of Companies to confirm that a return or application under this Act has been filed or made by any person;*
 - (iii) to be used solely for the purposes of the formulation or analysis of tax or fiscal policy;*
 - (iv) to be used solely for the purposes of administering or enforcing this Act or any other taxation statute of Alberta, the Small Power Research and Development Act or Division 2 of Part 5 of the Hospitals Act;*
 - (v) to be used solely to identify a person to whom money is owed by the Government and to determine the amount of the money so that the Government can set off all or part of the money owed against amounts owing by that person to the Government;*

15 Section 85(4.2), (4.21) and (4.3) presently read:

(4.2) Notwithstanding subsection (4.1) and sections 6.1 and 6.2, where a corporation establishes a permanent establishment in Alberta at any time in a taxation year and had a permanent establishment in Quebec in the immediately preceding taxation year, and either or both of the following applies:

- (a) did not have a permanent establishment in Alberta on the last day of the immediately preceding taxation year,
- (b) had a permanent establishment in Alberta at any time within the 6-year period ending on the last day of the immediately preceding taxation year, and
- (c) had a balance for Alberta purposes that differed from the corresponding balance for purposes of the federal Act at the end of the taxation year ending in the period referred to in clause (b) in which it last had a permanent establishment in Alberta,

establishes a permanent establishment in Alberta at any time in the taxation year, the corporation shall determine the amount of the balance at the beginning of the current year as if it had had continuous operations in Alberta from the end of the taxation year in which it last had a permanent establishment in Alberta to the last day of the immediately preceding taxation year and had computed income or loss for the purposes of this Act over the intervening period in a manner that was consistent with the determination of income or loss over the intervening period for purposes of the federal Act.

(4.201) Notwithstanding subsection (4.1) and sections 6.1 and 6.2, if

- (a) subsection (4.2) does not apply,
- (b) a corporation establishes a permanent establishment in Alberta in the taxation year, and
- (c) the corporation
 - (i) had a permanent establishment in Quebec in the immediately preceding taxation year, and
 - (ii) had a balance at the end of that year under the Quebec Act that differed from the corresponding balance for purposes of the federal Act,

- (a) *the corporation had a balance at the end of the immediately preceding taxation year for purposes of the applicable Quebec corporate tax statute that varied from the corresponding balance at the end of the immediately preceding taxation year for purposes of the federal Act, and the balance for purposes of the federal Act arose from the application of paragraphs 18(1)(b), 20(1)(a), 20(1)(e), 20(1)(l), 20(1)(l.1), 20(1)(m), 20(1)(m.1), 20(1)(n), 20(1)(o) and 20(1)(p), subsections 20(26), 20(30), 21(1), 21(2), 26(2), 37(1), 40(1), 91(2) and 138(3) and sections 65 to 68 and 110.1 of the federal Act;*
- (b) *the corporation had a non-capital, net capital, restricted farm, farm or limited partnership loss balance at the end of the immediately preceding taxation year for purposes of the applicable Quebec corporate tax statute that varied from the corresponding balance for purposes of the federal Act,*

the amount of any such balance at the beginning of the taxation year in which the corporation establishes a permanent establishment in Alberta is deemed to be equal to the aggregate of

- (c) *the product obtained when the balance at the end of the immediately preceding year for purposes of a particular province in which the corporation had a permanent establishment at any time in that year is multiplied by the percentage of taxable income allocated to that province for that taxation year, and*
- (d) *the product obtained when the balance at the end of the immediately preceding year for federal purposes is multiplied by the percentage of taxable income that is not allocated to a province for that taxation year.*

(4.21) In the application of subsection (4.2) to the 2009 taxation year in respect of a corporation that

- (a) *had a permanent establishment in Ontario at the end of its immediately preceding taxation year, and*
- (b) *establishes a permanent establishment in Alberta at any time in its 2009 taxation year,*

the words “at the end of the immediately preceding year” in subsection (4.2)(c) and (d) shall be read as “at the beginning of the year”

the amount of the balance at the beginning of the current year for the purposes of this Act is deemed to be equal to the aggregate of

- (d) the product obtained when the balance at the end of the immediately preceding taxation year under the Quebec Act is multiplied by the percentage of taxable income allocated to Quebec for that taxation year, and
- (e) the product obtained when the balance at the end of the immediately preceding year under the federal Act is multiplied by the percentage of taxable income that was not allocated to Quebec for that taxation year.

(4.202) For the purposes of subsections (4.2) and (4.201), a balance is

- (a) any amount that arose from the application of paragraphs 18(1)(b), 20(1)(a), 20(1)(b) and 20(1)(e), subsections 21(1), 21(2), 37(1), 40(1) and 91(2) and sections 65 to 68 and 110.1 of the federal Act, as those provisions apply for federal purposes and for the purposes of this Act,
- (b) any amount that arose from the application of the Quebec Act that resulted in the calculation of an amount that corresponds to an amount referred to in clause (a), and
- (c) a non-capital, net capital, restricted farm, farm or limited partnership loss balance at the end of the immediately preceding taxation year for the purposes of
 - (i) the federal Act,
 - (ii) this Act, or
 - (iii) the Quebec Act.

(b) by repealing subsection (4.21);

(c) in subsection (4.3) by striking out “subsection (4.2)” and substituting “subsection (4.201)”.

(4.3) For the purposes of computing the percentage of taxable income allocated to a province for the purpose of subsection (4.2), taxable income of the corporation for the immediately preceding year is deemed to be \$1 if the corporation did not have taxable income in that year.

(2) Subsection (1) applies to taxation years that begin after the coming into force of this section.

16 The heading to Part 9 is amended by striking out “Corporations” and substituting “Premiums”.

17(1) Section 86 is amended

(a) in subsection (1)

(i) by renumbering clause (a) as clause (a.1) and adding the following before clause (a.1):

(a) “accident insurance” means insurance by which the insurer undertakes, otherwise than incidentally to some other class of insurance established by the regulations under the *Insurance Act*, to pay insurance money in the event of accident to the person insured, but does not include insurance by which the insurer undertakes to pay insurance money both in the event of death by accident and in the event of death by another cause;

(ii) by repealing clause (a);

(iii) by repealing clause (c) and substituting the following:

(c) “business transacted in Alberta” means

(i) in the case of property insurance, all contracts of insurance on which premiums are receivable from, or in respect of, persons whose property was situated in Alberta at the time the premiums became payable, and

(ii) in the case of other insurance, all contracts of insurance on which premiums are receivable from, or in respect of, persons who were resident

16 The heading to Part 9 presently reads:

Part 9
Insurance Corporations Tax

17 Section 86 presently reads:

86(1) In this Part,

- (a) “accident and sickness insurance” has the meaning given to that expression by the regulations under the Insurance Act;*
- (b) “annuity contract” means a contract that provides for the payment of an income for a specified period or for life and under the terms of which the sole benefit stated to be payable by reason of death does not exceed the sum of the amounts paid as consideration for the contract together with interest;*
- (c) “business transacted in Alberta” means*
 - (i) in the case of property insurance, all contracts on which premiums are receivable from, or in respect of, persons whose property was situated in Alberta at the time the premiums became payable, and*
 - (ii) in the case of other insurance, all contracts on which premiums are receivable from, or in respect of, persons who were resident in Alberta at the time the premiums became payable;*
- (d) “insurance company” means a person or corporation carrying on in Alberta the business of insurance within the meaning of the Insurance Act, and*
 - (i) includes a reciprocal or inter-insurance exchange and underwriters and syndicates of underwriters operating on the plan known as “Lloyd’s”, but*
 - (ii) does not include a fraternal society as defined in the Insurance Act;*

in Alberta at the time the premiums became payable;

(iv) by adding the following after clause (c):

(c.1) “contract of insurance” includes

- (i) any policy, certificate, interim receipt, renewal receipt or writing evidencing the contract, whether sealed or not, and a binding oral agreement,
- (ii) reciprocal contracts of indemnity or inter-insurance exchanged as part of a reciprocal insurance exchange, and
- (iii) a contract in respect of which a person deducts a policy reserve pursuant to paragraph 20(7)(c) of the federal Act as it applies for the purposes of this Act;

(c.2) “insurance” means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance might be exposed or to pay a sum of money or other thing of value on the happening of a certain event and, without limiting the generality of the foregoing, includes life insurance and all classes of insurance established by the regulations under the *Insurance Act*;

(c.3) “insurance money” includes all insurance money, benefits, surplus, profits, dividends, bonuses and annuities payable by an insurer under a contract of insurance;

(v) by repealing clause (d) and substituting the following:

- (d) “insurer” means any person that undertakes, or agrees or offers for valuable consideration to undertake or effect, a contract of insurance, and includes

- (e) *“life insurance” has the meaning given to that expression by the regulations under the Insurance Act;*
 - (f) *“marine insurance” has the meaning given to that expression by the regulations under the Insurance Act;*
 - (g) *“risk distribution plan” means a plan, agreement, scheme or arrangement entered into or established by insurance companies for the purposes of pooling, assigning or transferring risks among insurance companies and that is approved under section 661 of the Insurance Act;*
- (1.1) For the purposes of this Part, an insurance company is deemed to include a person or corporation that claims a policy reserve in respect of an insurance business pursuant to paragraph 20(7)(c) of the federal Act as it applies for the purposes of this Act.*
- (2) For the purposes of this Part, the tax payable by an insurance company means the tax payable under this Part by the insurance company as fixed by assessment or reassessment subject to variation on objection or on appeal, if any, in accordance with this Part.*
- (3) For the purposes of this Part, ABC Benefits Corporation is considered to be an insurance company.*

- (i) a person or group of persons made up of underwriters operating on the plan known as Lloyd's or any other plan approved by the Minister responsible for the *Insurance Act*,
- (ii) a person who exchanges with other persons reciprocal contracts of indemnity or inter-insurance as part of a reciprocal insurance exchange,
- (iii) a person who deducts a policy reserve pursuant to paragraph 20(7)(c) of the federal Act as it applies for the purposes of this Act, and
- (iv) the ABC Benefits Corporation under the *ABC Benefits Corporation Act*,

but does not include a fraternal society as defined in the *Insurance Act*;

(vi) by adding the following after clause (f):

- (f.1) "person" means a person as defined in the *Insurance Act*;
- (f.2) "pleasure craft" means a water craft or vessel used for recreational or sporting purposes, whether or not the craft or vessel is chartered to another person for that use;
- (f.3) "policy" means an instrument evidencing a contract of insurance;
- (f.4) "premium" means the single or periodical payment to be made for insurance and includes dues, assessments and other consideration;
- (f.5) "property" means property as defined in the *Insurance Act*;
- (f.6) "property insurance" has the meaning given to that expression by the regulations under the *Insurance Act*;

(f.7) “reciprocal insurance exchange” means a reciprocal insurance exchange as defined in the *Insurance Act*;

(vii) in clause (g) by striking out “insurance companies” wherever it occurs and substituting “insurers”;

(viii) by adding the following after clause (g):

(h) “sickness insurance” means insurance by which the insurer undertakes to pay insurance money in the event of sickness of the person insured, but does not include disability insurance.

(ix) by repealing clause (h);

(b) by repealing subsection (1.1);

(c) in subsection (2) by striking out “insurance company” wherever it occurs and substituting “insurer”;

(d) by repealing subsection (3).

(2) Subsection (1)(a)(i) and (viii) are deemed to have come into force on July 1, 2012.

(3) Subsection (1)(a)(ii) and (ix) come into force on January 1, 2013.

18(1) Section 87 is amended

(a) in subsection (1)

(i) by striking out “insurance company” and substituting “insurer”;

(ii) by repealing clause (a) and substituting the following:

(a) 2% of the amount of premiums receivable during the year by the insurer under contracts of accident insurance, sickness insurance, accident and sickness insurance and life insurance, and

18 Section 87 presently reads:

87(1) An insurance company shall pay to the Provincial Minister for a taxation year a tax of

- (a) 2% of the amount of premiums receivable during the year by the company under contracts of accident and sickness insurance and life insurance, and*
- (b) 3% of the amount of premiums receivable during the year by the company under any other insurance contract,*

in respect of business transacted in Alberta by the company.

(iii) **in clause (a) by striking out** “accident insurance, sickness insurance,”;

(iv) **in clause (b)**

(A) **by striking out** “company” **and substituting** “insurer”;

(B) **by striking out** “insurance contract” **and substituting** “contract of insurance”;

(v) **by striking out** “Alberta by the company” **and substituting** “Alberta by the insurer”;

(b) **by repealing subsection (2);**

(c) **in subsection (3)(a) by striking out** “insurance company’s” **and substituting** “insurer’s”.

(2) Subsection (1)(a)(ii) is deemed to have come into force on July 1, 2012.

(3) Subsection (1)(a)(iii) comes into force on January 1, 2013.

19 Section 88 is amended

(a) **in subsection (1)**

(i) **in clause (a) by striking out** “a company” **and substituting** “an insurer”;

(ii) **in clause (b) by adding** “, unless the premiums are receivable in respect of a pleasure craft” **after** “insurance”;

(iii) **in clause (c) by striking out** “insurance company” **and substituting** “insurer”;

(b) **in subsection (2) by striking out** “insurance company” **and substituting** “insurer”.

(2) The reference in subsection (1)(b) to “3%” is deemed to be a reference to “2.75%” in respect of the amount of premiums receivable by the company during the 1987 taxation year.

(3) For the purposes of this section, the “amount of premiums receivable” during a taxation year is the gross amount of premiums receivable during the taxation year less the aggregate of

- (a) an amount equal to the cash value of the dividends paid or credited to the insurance company’s policy-holders during the taxation year, and*
- (b) an amount equal to the premiums returned during the taxation year.*

19 Section 88 presently reads:

88(1) The tax imposed under this Part is not payable,

- (a) by a company transacting life insurance, on amounts receivable as consideration for an annuity contract,*
- (b) in respect of premiums receivable under a contract of marine insurance,*
- (c) in respect of a premium or a portion of a premium that an insurance company does not retain under a risk distribution plan, or*
- (d) by a reinsurer in respect of reinsurance premiums paid or credited to it by an insurer.*

(2) For the purposes of this Part, a premium or a portion of a premium that an insurance company directly or indirectly receives under a risk distribution plan is deemed not to be a reinsurance premium.

20 Section 89 is amended

(a) in subsection (1)

(i) by striking out “insurance company” and substituting “insurer”;

(ii) by striking out “the company” and substituting “the insurer”;

(b) in subsections (2) and (3) by striking out “insurance company” wherever it occurs and substituting “insurer”.

21 Section 90 is amended by striking out “insurance company” and substituting “insurer”.

22 Section 91 is amended

20 Section 89 presently reads:

89(1) An insurance company liable to pay a tax under this Part for a taxation year shall file a return with the Provincial Minister in the prescribed form and containing the prescribed information on or before the 75th day after the end of the taxation year showing an estimate of the amount of tax payable by the company in respect of the taxation year and shall remit to the Provincial Minister the amount of tax payable by it in respect of the taxation year.

(2) Whether or not an insurance company is liable to pay tax under this Part for a taxation year and whether or not a return has been filed under subsection (1) or (3), an insurance company shall, on receipt of a notice served personally or by registered letter by the Provincial Minister, file with the Provincial Minister, within any reasonable time stipulated by the Provincial Minister in the notice, a return for the taxation year designated in the notice in the prescribed form and containing the prescribed information.

(3) A trustee in bankruptcy, assignee, liquidator, curator, receiver, trustee or committee and an agent or other person administering, managing, winding up, controlling or otherwise dealing with the property, business, estate or income of an insurance company that has not filed a return for a taxation year as required by this section shall file the return required by subsection (1) for that insurance company for that year.

21 Section 90 presently reads:

90 An insurance company that has failed to file a return as and when required by this Part is liable to a penalty equal to the aggregate of

- (a) an amount equal to 5% of the tax that was unpaid when the return was required to be filed, and*
- (b) the product obtained when 1% of the tax that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding 12, in the period between the day on which the return was required to be filed and the day on which the return was filed.*

22 Section 91 presently reads:

- (a) **by striking out “insurance company” wherever it occurs and substituting “insurer”;**
- (b) **by striking out “insurance company’s” and substituting “insurer’s”.**

23 Section 92 is amended

- (a) **in subsection (1.01) by striking out “insurance company” and substituting “insurer”;**
- (b) **in subsection (2)**
 - (i) **in clause (a) by striking out “corporation’s” and substituting “insurer’s”;**
 - (ii) **in clause (b) by striking out “insurance company” and substituting “insurer”.**

24 The following is added after section 92:

Regulations

92.1 The Lieutenant Governor in Council may make regulations

- (a) exempting any type, class or subclass of insurance from the application of this Part;
- (b) defining any word or expression that is used but not defined in this Part.

91 If, at any time after the day on or before which a return under section 89 of an insurance company was required to be filed for a taxation year, the amount of its tax payable for the year exceeds the aggregate of all amounts each of which is an amount paid at or before that time on account of tax payable and applied as at that time by the Provincial Minister to reduce the insurance company's liability for an amount payable for the year under this Part, the insurance company liable to pay the tax shall pay to the Provincial Minister interest at the prescribed rate on the excess computed for the period during which that excess is outstanding.

23 Section 92 presently reads in part:

(1.01) Paragraph 87(2)(a) and sections 249 and 249.1 of the federal Act apply for the purpose of determining a taxation year of an insurance company.

(2) In the application to this Part of the sections referred to in subsection (1.1),

(a) section 39(6) shall be read as if clause (a) read as follows:

(a) in the case of a penalty payable by reason of section 90, from the day on or before which the corporation's return under section 89 was required to be filed to the day of payment,

(b) a liability of an insurance company that may be reduced by the application of an amount to the liability by the Provincial Minister pursuant to the application of section 47 includes any liability under this Act, and

24 Regulation-making authority added.

RECORD OF DEBATE

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