

2013 Bill 23

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First Session, 28th Legislature, 62 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 23**

**TAX STATUTES AMENDMENT ACT, 2013**

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PRESIDENT OF TREASURY BOARD AND  
MINISTER OF FINANCE

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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## BILL 23

2013

### TAX STATUTES AMENDMENT ACT, 2013

(Assented to \_\_\_\_\_, 2013)

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

#### Alberta Corporate Tax Act

##### Amends RSA 2000 cA-15

**1(1)** The *Alberta Corporate Tax Act* is amended by this section.

**(2)** Section 1(2) is amended by adding the following before clause (f):

(e.3) “large corporation”, with respect to a particular taxation year, means a corporation that is a large corporation in that taxation year within the meaning assigned by subsection 225.1(8) of the federal Act;

**(3)** Section 9 is amended

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

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

**(3)** Where a corporation has claimed an amount pursuant to subparagraph 40(1)(a)(iii) of the federal Act in computing its gain from the disposition of a property for a taxation year for the purposes of the federal Act, the corporation must claim the

## Explanatory Notes

### Alberta Corporate Tax Act

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

(2) Adds definition.

(3) Section 9 presently reads:

*9(1) Subject to subsection (2), subdivision c of Division B of Part I of the federal Act applies to determine the taxable capital gains and allowable capital losses of a corporation from the disposition of any property.*

*(2) In the application of subdivision c of Division B of Part I of the federal Act, a reference to amounts deducted under subsection 127(5) of the federal Act includes the amounts deemed to have been*

same amount for that year for the purposes of this Act pursuant to that provision as made applicable by this Act.

**(4) Subsection (3) applies to taxation years ending after the coming into force of that subsection.**

**(5) Section 24 is amended**

**(a) in subsection (2.1)**

**(i) by striking out “In” and substituting “Subject to subsection (2.2), in”;**

**(ii) by adding “the aggregate of” after “an amount equal to”;**

**(b) by adding the following after subsection (2.1):**

**(2.2)** The amount under subsection (2.1) by which a corporation may reduce the amount of tax that it would be required to pay may not exceed the amount of the tax payable after claiming the deductions under sections 22 and 23.

*deducted under that subsection by subsection 127.1(3) or 192(10) of the federal Act.*

(4) Application of subsection (3).

(5) Section 24(2.1) presently reads:

*(2.1) In respect of the aggregate amount of contributions under the Election Finances and Contributions Disclosure Act contributed by a corporation during the taxation year to a registered party, registered constituency association or registered candidate, that corporation may reduce the amount of tax that it would be required to pay under this Part after claiming the deductions under sections 22 and 23 by an amount equal to*

*(a) in the case of a registered party, a registered constituency association or a registered candidate who is a candidate under the Election Act, for contributions made on or after January 1, 2004 in respect of an election under the Election Act,*

*(i) 75% of the amount contributed if the aggregate amount of contributions by the corporation does not exceed \$200,*

*(ii) \$150 plus 50% of the amount contributed in excess of \$200 if the aggregate amount of contributions by the corporation exceeds \$200 but does not exceed \$1100, or*

*(iii) if the aggregate amount of contributions by the corporation exceeds \$1100, the lesser of*

*(A) \$1000, and*

*(B) \$600 plus 33 1/3 % of the amount contributed in excess of \$1100,*

*and*

*(b) in the case of a registered party that has nominated a candidate under the Senatorial Selection Act or a registered candidate who is a candidate under the Senatorial Selection Act, for contributions made on or after January 1, 2004 in respect of an election under the Senatorial Selection Act,*

**(6) Section 26.6 is amended**

**(a) in subsection (3) by striking out “65%” and substituting “55%”;**

**(b) by adding the following after subsection (3):**

**(3.1)** Notwithstanding subsection (3), for purposes of determining a corporation’s eligible expenditures for a taxation year ending in 2013 or 2014, 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, the aggregate of

- (a) 65% of the proportion of the amount of 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 paid in respect of scientific research and experimental development carried out in Alberta that the number of days in the taxation year before 2013 bears to the number of days in the taxation year,
- (b) 60% of the proportion of the amount of 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 paid in respect of scientific research and experimental development carried out in Alberta that the number of days in the taxation year in 2013 bears to the number of days in the taxation year, and

- (i) *75% of the amount contributed if the aggregate amount of contributions by the corporation does not exceed \$200,*
- (ii) *\$150 plus 50% of the amount contributed in excess of \$200 if the aggregate amount of contributions by the corporation exceeds \$200 but does not exceed \$1100, or*
- (iii) *if the aggregate amount of contributions by the corporation exceeds \$1100, the lesser of*
  - (A) *\$1000, and*
  - (B) *\$600 plus 33 1/3 % of the amount contributed in excess of \$1100.*

(6) Section 26.6(3) presently reads:

*(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.*

- (c) 55% of the proportion of the amount of 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 paid in respect of scientific research and experimental development carried out in Alberta that the number of days in the taxation year after 2013 bears to the number of days in the taxation year.

**(7) Subsection (6) applies to taxation years ending after December 31, 2012.**

**(8) Section 47(4.21)(b) is repealed and the following is substituted:**

- (b) all or part of the assessment action resulted from a response to a notice of objection filed with another jurisdiction by a corporation that was a large corporation in the taxation year to which the notice of objection relates, and

**(9) Section 48 is amended**

- (a) **in subsection (1.01) by striking out** “within the meaning assigned by subsection 225.1(8) of the federal Act”;
- (b) **in subsection (1.11) by striking out** “, within the meaning assigned by subsection 225.1(8) of the federal Act,”;
- (c) **in subsection (1.13) by striking out** “within the meaning assigned by subsection 225.1(8) of the federal Act,”.



(7) Application of subsection (6).

(8) Section 47(4.21)(b) presently reads:

*(4.21) Notwithstanding subsection (4), where*

*(b) all or part of the assessment action resulted from a response to a notice of objection filed with another jurisdiction by a large corporation within the meaning assigned by subsection 225.1(8) of the federal Act, and*

*the interest payable under this section on any overpayment resulting from the reassessment shall be reduced by the lesser of*

(9) Section 48 presently reads in part:

*(1.01) Notwithstanding subsection (1), a corporation that is a large corporation in a taxation year within the meaning assigned by subsection 225.1(8) of the federal Act that objects to an assessment under this Act must serve on the Provincial Minister a notice of objection in the prescribed form on or before the day that is 90 days after the day of mailing of the notice of assessment.*

*(1.11) If a corporation that was a large corporation in a taxation year, within the meaning assigned by subsection 225.1(8) of the federal Act, objects to an assessment under this Part for the year, the notice of objection shall*

*(a) reasonably describe each issue to be decided,*

*(b) specify in respect of each issue, the relief sought, expressed as the amount of a change in a balance, within the meaning assigned by section 43(6), or a balance of undeducted outlays, expenses or other amounts of the corporation, and*

**(10) Section 50(2.1) is amended by striking out “, within the meaning assigned by subsection 225.1(8) of the federal Act.”.**

**(11) Section 60.1 is amended by adding the following after subsection (4):**

**(4.1)** Where an amount has been assessed under this Act in respect of a corporation for a taxation year in which it was a large corporation, subsections (1) to (4) do not apply to limit any action of the Provincial Minister to collect

*(c) provide facts and reasons relied on by the corporation in respect of each issue.*

*(1.13) Notwithstanding subsections (1), (1.1) and (1.105), if under subsection (4) a particular assessment was made for a taxation year pursuant to a notice of objection served by a corporation that was a large corporation in the year, within the meaning assigned by subsection 225.1(8) of the federal Act, except where the objection was made to an earlier assessment made under any of the provisions or circumstances referred to in subsection (1.1)(a), the corporation may object to the particular assessment in respect of an issue*

*(a) only if the corporation has complied with subsection (1.11) in the notice with respect to that issue, and*

*(b) only with respect to the relief sought in respect of that issue as specified by the corporation in the notice.*

(10) Section 50(2.1) presently reads:

*(2.1) Notwithstanding subsections (1) and (1.1), if a corporation that was a large corporation in a taxation year, within the meaning assigned by subsection 225.1(8) of the federal Act, served a notice of objection to an assessment under this Act for the year, the corporation may appeal to the court to have the assessment vacated or varied only with respect to*

*(a) an issue in respect of which the corporation has complied with section 48(1.11) in the notice, or*

*(b) an issue described in section 48(1.14) where the corporation did not, because of section 48(7), serve a notice of objection to the assessment that gave rise to the issue*

*and, in the case of an issue described in clause (a), the corporation may so appeal only with respect to the relief sought in respect of the issue as specified by the corporation in the notice.*

(11) Section 60.1 presently reads:

*60.1(1) If a corporation is liable for the payment of an amount assessed under this Act, in this subsection referred to as the "unpaid amount", other than an amount assessed under section 50(1.2), the Provincial Minister shall not, for the purpose of collecting the unpaid amount,*

*(a) commence legal proceedings in the court,*

- (a) at any time on or before the particular day that is 90 days after the day of the mailing of the notice of assessment, 1/2 of the amount so assessed, and
- (b) at any time after the particular day, the amount, if any, by which the amount so assessed exceeds the total of
  - (i) all amounts collected before that time with respect to the assessment, and
  - (ii) 1/2 of the amount in controversy at that time.

(b) *certify the unpaid amount under section 58, or*

(c) *require a person to make a payment under section 60,*

*until after the day that is 90 days after the day of the mailing of the notice of assessment.*

*(2) If a corporation has served a notice of objection under this Act to an assessment of an amount payable under this Act, the Provincial Minister shall not, for the purpose of collecting the amount in controversy, take any of the actions described in subsection (1)(a) to (c) until after the day that is 90 days after the day on which notice is mailed to the corporation that the Provincial Minister has confirmed or varied the assessment.*

*(3) If a corporation has appealed to the court from an assessment of an amount payable under this Act, the Provincial Minister shall not, for the purpose of collecting the amount in controversy, take any of the actions described in subsection (1)(a) to (c) before the day on which the judgment of the court takes effect or the day on which the corporation discontinues the appeal.*

*(4) If the Provincial Minister is notified that*

*(a) proceedings have been instituted in the Tax Court of Canada under section 173 of the federal Act, or*

*(b) the Minister of National Revenue has applied to the Tax Court of Canada under section 174 of the federal Act,*

*the Provincial Minister shall not take any of the actions described in subsection (1)(a) to (c) for the purpose of collecting that part of an amount assessed, the liability for payment of which will be affected by the determination of the question that is the subject of the proceedings or application, before the day on which the question is determined by that court.*

*(5) Notwithstanding any other provision in this section, if a corporation has served a notice of objection under this Act to an assessment or has appealed to the Court of Queen's Bench from the assessment and agrees in writing with the Provincial Minister to delay proceedings on the objection or appeal, as the case may be, until judgment has been given in another action before the Court of Queen's Bench, the Court of Appeal, the Tax Court of Canada, the Federal Court of Appeal or the Supreme Court of Canada in which the issue is the same or substantially the same as that raised in the*

**(12) Subsection (11) applies to taxation years ending after the coming into force of that subsection.**

**(13) Section 85(1) is amended by striking out “and notwithstanding section 1(2)(e.2)”.**

**(14) Subsection (13) is deemed to have come into force on January 1, 2001.**

**(15) Section 119(3) is amended by striking out “a collection agreement is in effect under the *Alberta Income Tax Act* or”.**

*objection or appeal of the corporation, the Provincial Minister may take any of the actions described in subsection (1)(a) to (c) for the purpose of collecting the amount assessed, or a part of the amount, determined in a manner consistent with the decision or judgment made in the other action at any time after the Provincial Minister notifies the corporation in writing that*

- (a) the decision has been made by the Court of Queen's Bench in that action,*
- (b) the decision has been made by the Court of Appeal in that action,*
- (c) the decision has been made by the Tax Court of Canada in that action,*
- (d) judgment has been pronounced by the Federal Court of Appeal in that action, or*
- (e) judgment has been delivered by the Supreme Court of Canada in that action,*

*as the case may be.*

(12) Application of subsection (11).

(13) Section 85(1) presently reads:

*85(1) For the purposes of this section and notwithstanding section 1(2)(e.2),*

- (a) "incorporated provision" means a provision of the federal Act that is made applicable or referred to by a provision of this Act;*
- (b) "old Act" means the Alberta Income Tax Act as it was on December 31, 1980.*

(14) Coming into force of subsection (13).

(15) Section 119(3) presently reads:

*(3) Notwithstanding that more than 3 years have passed since the date of mailing a notice of an original assessment of interest or penalties payable by an individual for a taxation year, or of a*

## **Alberta Income Tax Act**

**Repeal of RSA 2000 cA-26 and related consequential amendments**

**2(1)** The *Alberta Income Tax Act*, RSA 2000 cA-26, is repealed.

**(2)** The *Judicature Act* is amended in section 26(3) by striking out “the *Alberta Income Tax Act* or”.

**(3)** The *Proceedings Against the Crown Act* is amended in section 2 by striking out “the *Alberta Income Tax Act*,”.



*determination of the entitlement to a royalty credit or tax refund under this Part for the year, if a collection agreement is in effect under the Alberta Income Tax Act or a tax collection agreement is in effect under the Alberta Personal Income Tax Act and the amounts referred to in section 106(1.01) of this Act for the year are revised on a reassessment under the federal Act for the year, the Provincial Minister, within 12 months of the reassessment under the federal Act,*

- (a) may reassess or make additional assessments of interest or penalties under this Part, or*
- (b) may redetermine the amount of the royalty credit or tax refund, if any, to which the individual is entitled for the year.*

### **Alberta Income Tax Act**

**2(1)** Repeals chapter A-26 of the Revised Statutes of Alberta 2000.

**(2)** Amends chapter J-2 of the Revised Statutes of Alberta 2000. Section 26(3) presently reads:

*(3) If any matter relating to a tax collection agreement between the Government of Canada and the Government of Alberta and entered into pursuant to the Alberta Income Tax Act or the Alberta Personal Income Tax Act is referred to the Court, the Attorney General of any province or territory of Canada that has entered into a tax collection agreement of a like nature and having like purposes to the tax collection agreement entered into by the Government of Alberta may appear before the Court of Appeal, and is entitled to be heard as a party on the reference.*

**(3)** Amends chapter P-25 of the Revised Statutes of Alberta 2000. Section 2 presently reads:

*2 This Act is subject to the Workers' Compensation Act, the Land Titles Act as to claims against the General Revenue Fund, the Alberta Income Tax Act, the Alberta Personal Income Tax Act, the Alberta Corporate Tax Act and any other enactments designated by the Lieutenant Governor in Council.*

## **Alberta Personal Income Tax Act**

**Amends RSA 2000 cA-30**

**3(1) The *Alberta Personal Income Tax Act* is amended by this section.**

**(2) Section 12(1) is amended in the description of D by striking out “the lesser of \$10 000 and the amount”.**

**(3) Subsection (2) is deemed to have come into force on January 1, 2011.**

**(4) Section 20(1.1) is repealed and the following is substituted:**

## Alberta Personal Income Tax Act

3(1) Amends chapter A-30 of the Revised Statutes of Alberta 2000.

(2) Section 12(1) presently reads:

*12(1) For the purpose of computing the tax payable under this Act for a taxation year by an individual, there may be deducted the amount determined by the formula*

$$A \times [(B - C) + D]$$

*where*

*A is the specified percentage for the year;*

*B is the amount determined in the description of B in subsection 118.2(1) of the federal Act;*

*C is the lesser of \$1865 and 3% of the individual's income for the taxation year;*

*D is the total of all amounts each of which is, in respect of a dependant of the individual (within the meaning assigned by subsection 118(6) of the federal Act, other than a child of the individual who has not attained the age of 18 years before the end of the taxation year), the lesser of \$10 000 and the amount determined by the formula*

$$E - F$$

*where*

*E is the amount determined in the description of E in subsection 118.2(1) of the federal Act;*

*F is the lesser of \$1865 and 3% of the dependant's income for the taxation year.*

(3) Coming into force of subsection (2).

(4) Section 20(1.1) presently reads:

**(1.1)** Section 118.81 of the federal Act applies for the purposes of this Act, except that

- (a) the references to sections 118.5 and 118.6 in the description of A are to be read as references to sections 15 and 16, respectively, of this Act, and
- (b) effective January 1, 2005, the reference to “appropriate percentage for the taxation year” in the description of A is to be read as “the specified percentage for the year”.

**(5) Section 28(b) is repealed and the following is substituted:**

- (b) “adjusted income”, “base taxation year”, “cohabiting spouse or common-law partner”, “eligible individual”, “qualified dependant”, “return of income” and “shared-custody parent” have the same meanings as in section 122.6 of the federal Act;

**(6) Subsection (5) is deemed to have come into force on July 1, 2011.**

**(7) Section 30 is amended**

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

- (i) **by adding “eligible” before “individual” wherever it occurs;**
- (ii) **by adding “eligible” before “individual’s”;**

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

**(2)** Subject to subsection (3), the amount that an eligible individual is deemed to have overpaid in a month is determined by the formula:

$$\frac{1}{12} (A - B)$$

where

A is the least of the following:

*(1.1) Section 118.81 of the federal Act applies for the purposes of this Act, except that the reference to “\$800” in the description of A is to be read as “\$500”.*

(5) Section 28(b) presently reads:

*28 In this Division,*

*(b) “adjusted income”, “base taxation year”, “cohabiting spouse or common-law partner”, “eligible individual”, “qualified dependant” and “return of income” have the same meanings as in section 122.6 of the federal Act;*

(6) Coming into force of subsection (5).

(7) Section 30 presently reads:

*30(1) An individual is deemed to have made an overpayment in a month on account of the individual’s liability under this Act for the base taxation year in relation to that month if*

*(a) the individual has filed a return of income for the base taxation year, and*

*(b) the individual was resident in Alberta at the beginning of the month and on the last day of the immediately preceding month.*

*(2) Subject to subsection (3), the amount that an individual is deemed to have overpaid in a month is determined by the formula:*

$$\frac{1}{12} (A - B)$$

*where*

*A is the least of the following:*

- (a) whichever of the following applies, depending on the number of qualified dependants:
  - (i) if the person was an eligible individual at the beginning of the month in respect of only one qualified dependant, \$728;
  - (ii) if the person was an eligible individual at the beginning of the month in respect of more than one qualified dependant, the total of
    - (A) \$728 for the first qualified dependant,
    - (B) \$662 for the 2nd qualified dependant,
    - (C) \$397 for the 3rd qualified dependant, and
    - (D) \$132 for each of the 4th and subsequent qualified dependants;
- (b) 8% of the amount, if any, by which the eligible individual's adjusted earned income for the base taxation year in relation to the month exceeds \$2760;
- (c) \$1919;
- B is 4% of the amount, if any, by which the eligible individual's adjusted income for the base taxation year in relation to the month exceeds \$35 525.

**(c) by adding the following after subsection (2):**

**(2.1)** Notwithstanding subsection (2), if an eligible individual is a shared-custody parent in respect of one or more qualified dependants at the beginning of a month, the overpayment deemed by subsection (2) to have arisen during that month is equal to the amount determined by the formula

$$1/2 \times (A + B)$$

where

A is the amount determined by the formula in subsection (2) calculated without reference to this subsection, and

- (a) *whichever of the following applies, depending on the number of qualified dependants:*
- (i) *if the person was an eligible individual at the beginning of the month in respect of only one qualified dependant, \$669;*
  - (ii) *if the person was an eligible individual at the beginning of the month in respect of more than one qualified dependant, the total of*
    - (A) *\$669 for the first qualified dependant,*
    - (B) *\$608 for the 2nd qualified dependant,*
    - (C) *\$365 for the 3rd qualified dependant, and*
    - (D) *\$122 for each of the 4th and subsequent qualified dependants;*
- (b) *8% of the amount, if any, by which the individual's adjusted earned income for the base taxation year in relation to the month exceeds \$2760;*
- (c) *\$1764;*
- B is 4% of the amount, if any, by which the individual's adjusted income for the base taxation year in relation to the month exceeds \$32 633.*

*(3) If the total amount that an individual is deemed to have overpaid during a 12-month period from July of one year to June of the next year would be, except for this subsection, greater than \$0 and less than \$10, the total amount that the individual is deemed to have overpaid during that 12-month period is \$10.*

B is the amount determined by the formula in subsection (2) calculated without reference to this subsection and subparagraph (b)(ii) of the definition of “eligible individual” in section 122.6 of the federal Act.

**(d) in subsection (3) by adding “eligible” before “individual” wherever it occurs.**

**(8) Subsection (7)(b) comes into force on July 1, 2013, and subsection (7)(c) is deemed to have come into force on July 1, 2011.**

**(9) Section 32 is amended**

**(a) in subsection (1) by adding “eligible” before “individual” wherever it occurs;**

**(b) in subsection (2)**

**(i) by adding “eligible” before “individual’s”;**

**(ii) by adding “eligible” before “individual”.**

**(10) Division 4.1 of Part 1 is repealed.**

**(11) Part 1.1 is repealed.**

**(12) Section 86 is repealed.**



(8) Coming into force of subsection (7)(b) and (c).

(9) Section 32 presently reads:

*32(1) Despite section 30, if an individual has a cohabiting spouse or common-law partner at the end of a base taxation year, the individual is not deemed to have made an overpayment in respect of the base taxation year unless the cohabiting spouse or common-law partner has filed a return of income for the base taxation year.*

*(2) The Provincial Minister may waive the requirement for an individual's cohabiting spouse or common-law partner to file a return of income under subsection (1) if the individual has made an election under subsection 122.62(5) or (6) of the federal Act.*

(10) Repeals Division 4.1 of Part 1 dealing with the Alberta Resource Rebate.

(11) Repeals Part 1.1 dealing with the NHL Players Tax.

(12) Section 86 presently reads:

*86 The collection agreement entered into under section 58 of the old Act is continued as if it were a tax collection agreement entered into under this Act.*





### RECORD OF DEBATE

Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To