

2014 Bill 7

Second Session, 28th Legislature, 63 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 7

TAX STATUTES AMENDMENT ACT, 2014

THE PRESIDENT OF TREASURY BOARD AND MINISTER OF FINANCE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 7

2014

TAX STATUTES AMENDMENT ACT, 2014

(Assented to _____, 2014)

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

(a) by adding the following after clause (a):

(a.1) “Alberta QET tax credit” means the tax credit calculated under section 26.92;

(b) by adding the following after clause (g.01):

(g.011) “qualifying environmental trust” means a qualifying environmental trust as defined in subsection 248(1) of the federal Act, other than a trust described in paragraph 149(1)(z.1) or (z.2) of the federal Act;

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

(i.1) “tax shelter” means a tax shelter as defined in section 237.1(1) of the federal Act;

(3) Section 2 is amended by adding the following after subsection (6):

Explanatory Notes

Alberta Corporate Tax Act

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

(2) Definitions added.

(3) Application of federal Act.

(6.1) Except as otherwise provided in this Act, where

- (a) a section or part of a section of the federal Act has, by this Act, been made applicable for the purposes of this Act,
- (b) a coming into force provision in respect of that section or that part of a section of the federal Act provides for an election as to how or whether that section or that part of a section applies to a taxpayer in any particular taxation year, and
- (c) a taxpayer that is a corporation has made an election,

that section or that part of a section of the federal Act shall apply for the purposes of this Act in the same manner as elected by the corporation pursuant to the coming into force provision in respect of that section or that part of a section.

(4) The following is added after section 5:

Liability for income tax re qualifying environmental trust

5.1 A qualifying environmental trust that is resident in Alberta at the end of a taxation year shall pay a tax as required by Part 5.1 for that taxation year.

(5) Subsection (4) applies to taxation years ending after December 31, 2013.

(6) Section 8 is amended

- (a) in subsection (2.01) by adding “and” at the end of clause (a) and by repealing clauses (b), (b.1) and (b.2);**
- (b) by repealing subsection (2.02);**
- (c) in subsection (2.2) by striking out “from a business or property for a taxation year” and substituting “that is resident in Canada at any time in a taxation year from a business or property for the year”.**

(4) Liability for income tax in respect of a qualifying environmental trust.

(5) Application of subsection (4).

(6) Section 8 presently reads in part:

(2.01) In the application of subsection 18(1) of the federal Act,

(a) paragraph (a) shall be read as if “including but not limited to any tax payable under Part 1 of this Act, any tax payable under the federal Act, any tax similar to that imposed under Part 1 of this Act that is imposed by a province or any interest or penalties payable in respect of any of them” were added after “outlay or expense”,

(b) the reference in paragraph (m) to “or in respect of the late payment or non-payment of any such amount” does not apply for the purposes of this Act,

(7) Subsection (6)(a) applies to taxation years beginning after December 31, 2007.

(8) Subsection (6)(c) is deemed to have come into force on December 21, 2002.

(b.1) for each taxation year that ends after 2002 and before 2007, the repeal of paragraph (m) does not apply for the purposes of this Act,

(b.2) for a taxation year that begins in 2006 and ends in 2007, the repeal of paragraph (m) does not apply for the purposes of this Act to the proportion of the amount described by that paragraph that the number of days in the taxation year in 2006 bears to the number of days in the taxation year, and

(c) paragraph (t) does not apply for the purposes of this Act.

(2.02) In the application of subsection 20(1) of the federal Act

(a) for a taxation year that ends after 2002 and before 2007, paragraph (v.1) shall be read as “such amount as is allowed to the taxpayer for the year by regulation in respect of natural accumulations of petroleum or natural gas in Canada, oil or gas wells in Canada or mineral resources in Canada”,

(b) for a taxation year that begins in 2006 and ends in 2007, paragraph (v.1) shall be read as “that proportion of such amount as is allowed to the taxpayer for the year by regulation in respect of natural accumulations of petroleum or natural gas in Canada, oil or gas wells in Canada or mineral resources in Canada that the number of days in the taxation year in 2006 bears to the number of days in the taxation year”, and

(c) no deduction may be made under paragraph (v.1) in respect of any time period after 2006.

(2.2) In determining the income of a corporation from a business or property for a taxation year, there may be deducted the amount described in subsection 20(12) of the federal Act less the amount that is deductible under subsection 126(1) of the federal Act.

(7) Application of subsection (6)(a).

(8) Coming into force of subsection (6)(c).

(9) Section 17(2) is amended by striking out “The definitions in section 122.1 of the federal Act apply” **and substituting** “Section 122.1 of the federal Act applies”.

(10) Subsection (9) applies to

- (a) taxation years of a trust that end after 2006 and before 2011 if
 - (i) investments in the trust are, in one or more of those taxation years, listed or traded on a stock exchange or other public market, and
 - (ii) the trust elected, by notifying the Minister of National Revenue in writing on or before the filing due date for its taxation year that included June 26, 2013, to have subsections 258(1) to (12) of the *Technical Tax Amendments Act, 2012* (Canada) so apply,

and

- (b) the 2011 and subsequent taxation years, except that paragraph (d) of the definition “real estate investment trust” in subsection 122.1(1) of the federal Act as it applies for the purposes of this Act shall be read as follows for taxation years that end before 2013:
 - (d) at each time in the taxation year an amount, that is equal to 75% or more of the equity value of the trust at that time, is the amount that is the total fair market value of all properties held by the trust each of which is real or immovable property, indebtedness of a Canadian corporation represented by a bankers’ acceptance, property described by either paragraph (a) or (b) of the definition “qualified investment” in section 204 of the federal Act, or a deposit with a credit union;

(11) Section 23 is amended

- (a) in subsection (2.2) by adding “(4.11), (4.12), (4.13),” after “(4.1),”.

(9) Section 17(2) presently reads:

(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.

(10) Application of subsection (9).

(11) Section 23 presently reads in part:

(2.2) Subsections 126(4), (4.1), (4.2), (4.3), (4.4), (8) and (9) of the federal Act apply for the purposes of computing a corporation's non-business-income tax.

(b) in subsection (3) by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding the following after clause (c):

- (d) if, in computing a corporation’s income for a taxation year from a business carried on by the corporation in Canada, an amount is included in respect of interest paid or payable to the corporation by a person resident in a country other than Canada, and the corporation has paid to the government of that other country a non-business-income tax for the year with respect to the amount, the amount is, in applying the definition of “qualifying incomes” in subsection (2.1) for the purpose of subsection (2), deemed to be income from a source in that other country.

(12) Subsection (11)(a) applies to income or profits tax paid for taxation years of a corporation that end after March 4, 2010, except that, for taxation years of the corporation that end on or before August 27, 2010,

- (a) subsection 126(4.11) of the federal Act as it applies for the purposes of this Act shall be read as follows:

(4.11) If a corporation is a member of a partnership, any income or profits tax paid to the government of a particular country other than Canada — in respect of the income of the partnership for a period during which the corporation’s share of the income of the partnership under the income tax laws (referred to in subsection (4.12) as the “relevant foreign tax law”) of any country other than Canada under the laws of which the income of the partnership is subject to income taxation, is less than the corporation’s share of the income for the purposes of this Act — is not included in computing the corporation’s business-income tax or non-business-income tax for any taxation year.

- (b) the portion of subsection 126(4.12) of the federal Act preceding paragraph (a), as it applies for the purposes of this Act, shall be read as follows:

(3) *For the purposes of this section,*

- (a) *the government of a country other than Canada includes the government of a state, province or other political subdivision of that country,*
- (b) *where a taxpayer's income for a taxation year is in whole or in part from sources in more than one country other than Canada, subsection (2) shall be read as providing for separate deductions in respect of each of the countries other than Canada, and*
- (c) *if any income from a source in a particular country would be tax-exempt income but for the fact that a portion of the income is subject to an income or profits tax imposed by the government of a country other than Canada, the portion is deemed to be income from a separate source in the particular country.*

(12) Application of subsection (11)(a).

(4.12) For the purposes of subsection (4.11), a corporation is not to be considered to have a lesser share of the income of a partnership under the relevant foreign tax law than for the purposes of this Act solely because of one or more of the following:

- (c) section 126 of the federal Act as it applies for the purposes of this Act shall be read without reference to its subsection (4.13).

(13) Subsection (11)(b) applies to amounts received after February 27, 2004.

(14) The following is added after section 25:

Part 5.1 Qualifying Environmental Trusts

Tax payable by qualifying environmental trust

25.1(1) Every qualifying environmental trust resident in Alberta at the end of a taxation year shall pay tax equal to the product of its income for the year for the purposes of Part XII.4 of the federal Act and the percentage that would be the rate of tax applicable to the amount taxable in Alberta for the year under section 21 of a corporation that had the same taxation year.

(2) Every qualifying environmental trust that is required to pay tax pursuant to subsection (1) shall on or before the prescribed date

- (a) file a return for the year, in the form and manner prescribed, containing an estimate of the amount of its tax payable under this section for the taxation year, and
- (b) pay its tax payable for the taxation year in the manner prescribed.

(3) For the purposes of this Part, the taxation year of a qualifying environmental trust is a calendar year.

(15) Subsection (14) applies to taxation years ending after December 31, 2013.

(13) Application of subsection (11)(b).

(14) Part respecting qualifying environmental trusts added.

(15) Application of subsection (14).

(16) The following is added after section 26.91:

**Division 4
Alberta QET Tax Credit**

Alberta QET tax credit

26.92(1) Subject to subsection (4) and the regulations, a corporation is entitled to an Alberta QET tax credit for a taxation year (referred to in this section as the “particular year”) equal to the aggregate of

- (a) the total of all amounts, each of which is an amount determined by the formula

$$A \times (B/C)$$

where

- A is the tax payable under section 25.1 by a qualifying environmental trust for the taxation year of the trust that ends in the particular year,
- B is the amount determined for federal purposes pursuant to the definition of B in paragraph 127.41(1)(a) of the federal Act with respect to the corporation for the particular year, and
- C is the amount determined for federal purposes pursuant to the definition of C in paragraph 127.41(1)(a) of the federal Act,

and

- (b) in respect of each partnership of which the corporation was a member, the total of all amounts each of which is the amount that can reasonably be considered to be the corporation’s share of the relevant tax credit in respect of the partnership, and for this purpose, the relevant tax credit in respect of a partnership is the amount that would, if a partnership were a person and its fiscal period were its taxation year, be the Alberta QET tax credit of the partnership for its taxation year that ends in the particular year.

(16) Alberta QET tax credit.

(2) A corporation entitled to a tax credit under subsection (1) is deemed to have made a payment for the particular year at the prescribed time on account of its tax payable under this Act equal to its Alberta QET tax credit for the particular year.

(3) The payment referred to in subsection (2) may, in accordance with the regulations, be applied against amounts owing by the corporation or paid to the corporation.

(4) A corporation is not entitled to a tax credit under this section for a particular year if the corporation has not applied for the tax credit in the form and manner prescribed.

(17) Subsection (16) applies to taxation years that end after December 31, 2013.

(18) The following is added after section 34.02:

Expenditure limitations

34.03 Section 143.3 of the federal Act applies in computing the income of a corporation under this Act.

(19) Subsection (18) is deemed to have come into force on November 17, 2005, except that for securities issued or sold before October 24, 2012, the definition of “option” in subsection 143.3(1) of the federal Act as it applies for the purposes of this Act shall be read without reference to its paragraph (a).

(20) The following is added after section 34.03:

Limit for contingent amount

34.04 Section 143.4, except subsection (7), of the federal Act applies for the purposes of this Act.

(21) Subsection (20) applies to taxation years ending on or after March 16, 2011.

(22) Section 35(3)(d) is amended by striking out “section 23” and substituting “sections 23 and 26.9”.

(17) Application of subsection (16).

(18) Application of section 143.3 of the federal Act.

(19) Application of subsection (18).

(20) Application of section 143.4 of the federal Act.

(21) Application of subsection (20).

(22) Section 35(3)(d) presently reads:

(3) Where, at any time (in this subsection referred to as “that time”), a corporation referred to in subsection (1)(a) becomes or ceases to be exempt from tax under this Act on its taxable income otherwise than by reason of paragraph 149(1)(t) of the federal Act, as it applies for the purposes of this Act, the following rules apply:

(23) Subsection (22) applies to corporations that become or cease to be exempt from tax after 2008.

(24) Section 36(1.11) is repealed and the following is substituted:

(1.11) Subsection (1.1) does not apply to

- (a) a qualified corporation that is claiming an Alberta SR&ED tax credit under Division 3 of Part 6 for the taxation year, or
- (b) a corporation that is claiming an Alberta QET tax credit under section 26.92 for the taxation year.

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

- (vi) the Alberta QET tax credit under section 26.92 to which the corporation is entitled for the year,

(d) for the purposes of applying section 23 of this Act and sections 37, 65 to 66.4, 66.7 and 111 of the federal Act, as they apply for the purposes of this Act, to the corporation, the corporation is deemed to be a new corporation the first taxation year of which began at that time;

(23) Application of subsection (22).

(24) Section 36(1.11) presently reads:

(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.

(25) Section 37(1)(a) presently reads:

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,

(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, and

(26) Section 38.1(2) is repealed and the following is substituted:

(2) The Provincial Minister may, at any time, assess the corporation in respect of any amount payable by the corporation under subsection (1), and this Part (including, for greater certainty, the provisions in respect of interest payable) applies, with any modifications that the circumstances require, in respect of an assessment made under this subsection as if it had been made under section 41 or 43.

(27) Subsection (26) applies to assessments made after December 20, 2002.

(28) Section 39(3)(a) is amended

(a) by adding “, reduction” after “deduction”;

(b) by striking out “and” at the end of subclause (ii), by adding “and” at the end of subclause (iii) and by adding the following after subclause (iii):

(iv) any amount by which the amount included under subsection 91(1) of the federal Act as it applies for the purposes of this Act for the year is reduced because of a reduction referred to in section 44(2)(b) in the foreign accrual property income of a foreign affiliate of the corporation for a taxation year of the affiliate that ends in the year.

(29) Subsection (28) applies to taxation years commencing after December 18, 2009.

(30) Section 43 is amended

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

(26) Section 38.1(2) presently reads:

(2) The Provincial Minister may, at any time, assess the corporation in respect of any amount payable by the corporation under subsection (1), and this Part applies in respect of an assessment made under this subsection as if it had been made under section 43.

(27) Application of subsection (26).

(28) Section 39(3)(a) presently reads:

(3) For the purpose of computing interest under subsection (1) or (2) on tax or a part of an instalment of tax for a taxation year and for the purpose of section 73.1,

(a) the tax payable by the corporation for the year is deemed to be the amount that it would be if the consequences of the deduction or exclusion of the following amounts were not taken into consideration:

(i) any amount deducted under this Act by virtue of the application of section 41 of the federal Act in respect of its listed-personal-property loss for a subsequent taxation year,

(ii) any amount excluded from its income for the year under this Act by virtue of the application of section 49 of the federal Act in respect of the exercise of an option in a subsequent taxation year, and

(iii) any amount deducted under this Act by virtue of the application of section 111 of the federal Act in respect of a loss for a subsequent taxation year,

(29) Application of subsection (28).

(30) Section 43 presently reads in part:

(a) by adding the following after subsection (0.1):

(0.2) The time between the day on which proceedings are instituted in the Tax Court of Canada to have a question determined pursuant to subsection 173(1) of the federal Act and the day on which the question is finally determined shall not be counted in the computation of

- (a) the periods determined under subsection (1),
- (b) the time for service of a notice of objection to an assessment under section 48, or
- (c) the time within which an appeal may be instituted under section 50

for the purpose of making an assessment of the tax, interest or penalties payable by the corporation that agreed in writing to the determination of the question for the purposes of the federal Act, serving a notice of objection to an assessment under section 48 or instituting an appeal under section 50, as the case may be.

(0.3) The time between the day on which an application under subsection 174(1) of the federal Act is served on a corporation and

- (a) in the case of a corporation named in an order of the Tax Court of Canada pursuant to subsection 174(3) of the federal Act, the day on which the determination becomes final and conclusive and not subject to any appeal, or
- (b) in the case of any other corporation, the day on which the corporation is served with a notice that the corporation has not been named in an order of the Tax Court of Canada pursuant to subsection 174(3) of the federal Act,

shall not be counted in the computation of

- (c) the periods determined under subsection (1),
- (d) the time for service of a notice of objection to an assessment under section 48, or

(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 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,

(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, or

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

(5) Notwithstanding subsections (1), (2) and (3), if the result of an assessment or a decision on an appeal is to change a particular balance of a corporation for a particular taxation year, the

- (e) the time within which an appeal may be instituted under section 50

for the purpose of making an assessment of the tax, interest or penalties payable by the corporation, serving a notice of objection to an assessment under section 48 or instituting an appeal under section 50, as the case may be.

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

- (vii) is made to give effect to the application of any of sections 94, 94.1 and 94.2 of the federal Act as they apply for the purposes of this Act,

- (c) in subsection (5) by striking out “, or redetermine an amount deemed to have been paid or to have become payable under this Act by the corporation” and substituting “by the corporation, redetermine an amount deemed to have been paid or to have become payable by the corporation or modify the amount of a refund or other amount payable to the corporation, under this Act”;**

- (d) by adding the following after subsection (11):**

(12) Notwithstanding subsections (1), (1.02), (2), (3), (5) and (5.1), the Provincial Minister may make any assessments, determinations and redeterminations that are necessary to give effect to section 34.04.

(31) Subsection (30)(b) applies to taxation years ending after March 4, 2010.

(32) Subsection (30)(c) applies to reassessments, redeterminations and modifications in respect of taxation years that relate to changes in balances for other taxation years as a result of assessments made, or decisions on appeals rendered, after November 5, 2010.

(33) Subsection (30)(d) applies to taxation years ending on or after March 16, 2011.

(34) The following is added after section 43.01:

Provincial Minister may or, if the corporation so requests in writing, shall, before the later of the expiration of the normal reassessment period in respect of a subsequent taxation year and the end of the day that is one year after the day on which all rights of objection and appeal expire or are determined in respect of the particular year, reassess the tax, interest or penalties payable, or redetermine an amount deemed to have been paid or to have become payable under this Act by the corporation in respect of the subsequent taxation year, but only to the extent that the reassessment or redetermination can reasonably be considered to relate to the change in the particular balance of the corporation for the particular year.

(31) Application of subsection (30)(b).

(32) Application of subsection (30)(c).

(33) Application of subsection (30)(d).

(34) Assessment.

Assessments

43.02 When an assessment of a corporation's tax, interest and penalties is made under the federal Act for a taxation year that ends before June 26, 2013 to take into account

- (a) sections 50 to 52 or any provision of section 46 in respect of which section 50 applies to the corporation, or
- (b) any provision of sections 29 to 38 and 40 to 49 (other than a provision of section 46 that is described in clause (a))

of the *Technical Tax Amendments Act, 2012* (Canada), an assessment that deals with the same issues in the same manner may be made at any time under this Act.

(35) Section 44(2)(b) is repealed and the following is substituted:

- (b) the amount included in computing the corporation's income for the particular year under subsection 91(1) of the federal Act as it applies for the purposes of this Act is subsequently reduced because of a reduction in the foreign accrual property income of a foreign affiliate of the corporation for a taxation year (referred to in this clause as the "claim year") of the affiliate that ends in the particular year, if the reduction in that foreign accrual property income is
 - (i) attributable to a foreign accrual property loss, within the meaning assigned by subsection 5903(3) of the *Income Tax Regulations* (Canada) as it applies for the purposes of this Act, of the affiliate for a taxation year of the affiliate that ends in a subsequent taxation year of the corporation, and
 - (ii) included in the description of F in the definition of foreign accrual property income in subsection 95(1) of the federal Act as it applies for the purposes of this Act in respect of the affiliate for the claim year,

and

(35) Section 44(2) presently reads:

(2) *Where*

(b) *the amount included in computing the corporation's income for the particular year under subsection 91(1) of the federal Act as it applies for the purposes of this Act is subsequently reduced because of a reduction in the foreign accrual property income of a foreign affiliate of the corporation for a taxation year of the affiliate that ends in the particular year and is*

(i) *attributable to the amount prescribed pursuant to the federal regulations to be the deductible loss of the affiliate for the year that arose in a subsequent taxation year of the affiliate that ends in a subsequent year of the corporation, and*

(ii) *included in the description of F in the definition of foreign accrual property income in subsection 95(1) of the federal Act as it applies for the purposes of this Act in respect of the affiliate for the year,*

and

(c) *the corporation has filed the prescribed form with the Provincial Minister, on or before the filing due date for the corporation's subsequent taxation year,*

(36) Subsection (35) applies to taxation years commencing after November 30, 1999 and before the date from which subsection (37) applies.

(37) Section 44(2)(b) is repealed and the following is substituted:

(b) the amount included in computing the corporation's income for the particular year under subsection 91(1) of the federal Act as it applies for the purposes of this Act is subsequently reduced because of a reduction in the foreign accrual property income of a foreign affiliate of the corporation for a taxation year (referred to in this clause as the "claim year") of the affiliate that ends in the particular year, if

(i) the reduction is

(A) attributable to a foreign accrual property loss, within the meaning assigned by subsection 5903(3) of the *Income Tax Regulations* (Canada) as it applies for the purposes of this Act, of the affiliate for a taxation year of the affiliate that ends in a subsequent taxation year of the corporation, and

(B) included in the description of F in the definition of foreign accrual property income in subsection 95(1) of the federal Act as it applies for the purposes of this Act in respect of the affiliate for the claim year,

or

(ii) the reduction is

(A) attributable to a foreign accrual capital loss, within the meaning assigned by subsection 5903.1(3) of the *Income Tax Regulations* (Canada) as it applies for the purposes of this Act, of the affiliate for a taxation

the Provincial Minister shall reassess the corporation's tax for any relevant taxation year (other than a taxation year preceding the particular taxation year) in order to take into account the reduction in the amount included under subsection 91(1) of the federal Act as it applies for the purposes of this Act in computing the income of the corporation for the year.

(36) Application of subsection (35).

(37) Repeal and replacement of section 44(2)(b).

year of the affiliate that ends in a subsequent taxation year of the corporation, and

- (B) included in the description of F.1 in the definition of foreign accrual property income in subsection 95(1) of the federal Act as it applies for the purposes of this Act in respect of the affiliate for the claim year,

and

(38) Subsection (37) applies to taxation years that end after August 19, 2011.

(39) Section 47 is amended

(a) by repealing subsection (2.1)(d) and substituting the following:

(d) the total of

- (i) the amount, if any, so assessed that is not in controversy, and
- (ii) 1/2 of the amount so assessed that is in controversy if the amount is in respect of a particular amount claimed under section 110.1 of the federal Act as it applies for the purposes of this Act and the particular amount was claimed in respect of a tax shelter.

(b) in subsection (6) by striking out “or” at the end of clause (b), by adding “or” at the end of clause (c) and by adding the following after clause (c):

- (c.1) the reduction of the amount included in computing the corporation’s income for the year under subsection 91(1) of the federal Act as it applies for the purposes of this Act because of a reduction referred to in section 44(2)(b) in the foreign accrual property income of a foreign affiliate of the corporation for a taxation year of the affiliate that ends in the year,

(38) Application of subsection (37).

(39) Section 47(2.1) and (6) presently read:

(2.1) Subject to subsection (2.2), if a corporation

(a) has under section 48 served a notice of objection to an assessment of tax, interest under section 39(1), (2) or (6) or a penalty and the Provincial Minister has not within 120 days after the day of service confirmed or varied the assessment or made a reassessment in respect of the assessment, or

(b) has appealed to the court from an assessment of tax, interest under section 39(1), (2) or (6) or a penalty,

and has applied in writing to the Provincial Minister for a payment or surrender of security, the Provincial Minister shall, where no authorization has been granted under section 60.2 in respect of the amount assessed, with all due dispatch repay all amounts paid on account of that amount or surrender security accepted for that amount to the extent that

(c) the lesser of

(i) the aggregate of the amounts so paid and the value of the security, and

(ii) the amount so assessed

exceeds

(d) the amount, if any, so assessed that is not in controversy.

(40) Subsection (39)(a) applies in respect of amounts assessed for taxation years ending after 2012 and before the date subsection (42) comes into force.

(6) For the purpose of computing interest under subsection (4), the portion of any overpayment of the tax payable by a corporation for a taxation year that arose as a consequence of

- (a) the deduction of an amount under this Act by virtue of the application of section 41 of the federal Act in respect of the corporation's listed-personal-property loss for a subsequent taxation year,*
- (b) the exclusion of an amount from the corporation's income for the year under this Act by virtue of the application of section 49 of the federal Act in respect of the exercise of an option in a subsequent taxation year, or*
- (c) the deduction of an amount under this Act by virtue of the application of section 111 of the federal Act in respect of a loss for a subsequent taxation year*

is deemed to have arisen on the day that is the latest of

- (d) the first day immediately following that subsequent taxation year,*
- (e) the day on which the corporation's return under section 36 for that subsequent taxation year was filed,*
- (f) if an amended return for the taxation year or a prescribed form amending the corporation's return for the year was filed under this Act by virtue of the application of subsection 49(4) of the federal Act or section 44 of this Act, the day on which the amended return or prescribed form was filed,*
- (g) if, as a consequence of a request, the Provincial Minister reassessed the corporation's tax for the year to take into account the deduction or exclusion, the day on which the request was made, and*
- (h) if, as a consequence of an assessment action as defined in section 43(1.1), the Provincial Minister reassesses the corporation's tax for the year to take into account the exclusion or deduction and clauses (f) and (g) do not apply, the day on which the reassessment is issued.*

(40) Application of subsection (39)(a).

(41) Subsection (39)(b) applies to taxation years commencing after December 18, 2009.

(42) Section 47(2.1)(d) is repealed and the following is substituted:

- (d) the total of
 - (i) the amount, if any, so assessed that is not in controversy, and
 - (ii) 1/2 of the amount so assessed that is in controversy if
 - (A) the corporation is a large corporation, or
 - (B) the amount is in respect of a particular amount claimed under section 110.1 of the federal Act as it applies for the purposes of this Act and the particular amount was claimed in respect of a tax shelter.

(43) Section 48 is amended by adding the following after subsection (4.1):

(4.2) Notwithstanding subsection (1), where the Provincial Minister, pursuant to subsection (4.1), designates a notice of objection (the “original notice of objection”) as being based on a federal assessment action (the “original federal assessment action”), if

- (a) a federal assessment action is made with respect to the original federal assessment action as a result of the disposition of a particular issue that was part of the subject-matter of the original federal assessment action pursuant to subsection 171(2) or (4) of the federal Act (the “subsequent federal assessment action”), and
- (b) the corporation continues to appeal the remaining issues that were part of the subject-matter of the original federal assessment action pursuant to subsection 171(3) of the federal Act,

then

(41) Application of subsection (39)(b).

(42) Repeal and replacement of section 47(2.1)(d).

(43) Section 48 presently reads in part:

48(1) A corporation that objects to an assessment under this Act may serve on the Provincial Minister a notice of objection in the prescribed form setting out the reasons for the objection and all relevant facts, on or before the day that is 90 days after the day of mailing of the notice of assessment.

(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.

- (c) the corporation is not required to file a notice of objection with respect to any assessment or determination made under this Act as a result of the subsequent federal assessment action (the “subsequent Alberta assessment action”),
- (d) the original notice of objection is deemed to be a notice of objection filed by the corporation with respect to the subsequent Alberta assessment action insofar as it relates to the remaining issues being appealed by the corporation pursuant to subsection 171(3) of the federal Act, and
- (e) the Provincial Minister is deemed to have designated, pursuant to subsection (4.1), the notice of objection referred to in clause (d) as being based on the subsequent federal assessment action.

(44) Subsection (43) applies with respect to issues disposed of by the Tax Court of Canada after June 26, 2013.

(45) Section 49(3) is repealed and the following is substituted:

- (3)** If a legal representative (other than a trustee in bankruptcy) of a corporation distributes to one or more persons property in the possession or control of the legal representative, acting in that capacity, without obtaining a certificate under subsection (2) in respect of the amounts referred to in that subsection,
 - (a) the legal representative is personally liable for the payment of those amounts to the extent of the value of the property distributed,
 - (b) the Provincial Minister may at any time assess the legal representative in respect of any amount payable because of this subsection, and
 - (c) the provisions of this Act (including, for greater certainty, the provisions in respect of interest payable) apply, with any modifications that the circumstances require, to an assessment made under this subsection as though it had been made under section 41 or 43 in respect of taxes payable under this Act.

(44) Application of subsection (43).

(45) Section 49(3) presently reads:

(3) Where a legal representative (other than a trustee in bankruptcy) of a corporation distributes to one or more persons property in the possession or control of the legal representative acting in that capacity without obtaining a certificate under subsection (2) in respect of the amounts referred to in that subsection, the legal representative is personally liable for the payment of those amounts to the extent of the value of the property distributed, and the Provincial Minister may at any time assess the legal representative in respect of any amount payable because of this subsection, and the provisions of this Act apply, with any modifications that the circumstances require, to an assessment made under this subsection as though it had been made under section 41 or 43.

(46) Subsection (45) applies to assessments made after December 20, 2002.

(47) Section 49.1 is amended

- (a) in subsection (1) by striking out** “an amount of the corporation’s tax under this Act for the year equal to the amount, if any, by which the fair market value of the property at that time exceeds the fair market value at that time of the consideration given for the property, but nothing in this subsection limits the liability of the corporation under any other provisions of this Act” **and substituting** “the lesser of the corporation’s tax payable under this Act for the year and the amount, if any, by which the fair market value of the property at that time exceeds the fair market value at that time of the consideration given for the property, but nothing in this subsection limits the liability of the corporation under any other provision of this Act or of the person for the interest that the person is liable to pay under this Act on an assessment in respect of the amount that the person is liable to pay because of this subsection”;
- (b) in subsection (2) by adding** “or of the transferee for the interest that the transferee is liable to pay under this Act on an assessment in respect of the amount that the transferee is liable to pay because of this subsection” **after** “provision of this Act”;
- (c) in subsection (2.1)**

 - (i) by striking out** “Where” **and substituting** “If”;
 - (ii) by striking out** “is deemed to limit the liability of the corporation or the corporate partner under any other provision of this Act” **and substituting** “limits the liability of the corporation or the corporate partner under any other provision of this Act or of any person for the interest that the person is liable to pay under this Act on an assessment in respect of the amount that the person is liable to pay because of this subsection”;
- (d) by repealing subsection (3) and substituting the following:**

(46) Application of subsection (45).

(47) Section 49.1 presently reads:

49.1(1) If property is transferred at any time by a corporation to a person with whom the corporation does not deal at arm's length at that time and the corporation is prevented by subsection 61.3(3) of the federal Act from deducting an amount under section 61.3 of the federal Act as it applies for the purposes of this Act in computing its income for a taxation year because of the transfer or because of the transfer and one or more other transactions, the person is jointly and severally liable with the corporation to pay an amount of the corporation's tax under this Act for the year equal to the amount, if any, by which the fair market value of the property at that time exceeds the fair market value at that time of the consideration given for the property, but nothing in this subsection limits the liability of the corporation under any other provisions of this Act.

(2) If

- (a) property is transferred at any time from a corporation (in this subsection referred to as the "transferor") to another person (in this subsection referred to as the "transferee") with whom the transferor does not deal at arm's length,*
- (b) the transferor is liable because of subsection (1) or this subsection to pay an amount of the tax of another person (in this subsection referred to as the "debtor") under this Act, and*
- (c) it can reasonably be considered that one of the reasons of the transfer would, but for this subsection, be to prevent the enforcement of this section,*

the transferee is jointly and severally liable with the transferor and the debtor to pay an amount of the debtor's tax under this Act equal to the lesser of the amount of such tax that the transferor was liable to pay at that time and the amount, if any, by which the fair market value of the property at that time exceeds the fair market value at the time of the consideration given for the property, but nothing in this subsection limits the liability of the debtor or the transferor under any provision of this Act.

(2.1) Where a corporation or a partnership of which a corporation subject to tax under this Act is a member (referred to in this

(3) The Provincial Minister may at any time assess a person in respect of any amount payable by the person because of this section, and the provisions of this Part (including, for greater certainty, the provisions in respect of interest payable) apply, with any modifications that the circumstances require, in respect of an assessment made under this section as though it had been made under section 41 or 43 in respect of taxes payable under this Part.

(e) by adding the following after subsection (3):

(3.1) The Provincial Minister may at any time assess a person in respect of any amount payable because of paragraph 94(3)(d) or (e) or subsection 94(17) of the federal Act as they apply for the purposes of this Act, and the provisions of this Part (including, for greater certainty, the provisions in respect of interest payable) apply, with any modifications that the circumstances require, in respect of an assessment made under this section as though it had been made with respect to a corporation under section 41 or 43 in respect of taxes payable under this Part.

(f) in subsection (4) by striking out the portion preceding clause (a) and repealing clause (a) and substituting the following:

(4) If a person has become jointly and severally liable with a corporation under this section or because of paragraph 94(3)(d) or (e) or subsection 94(17) of the federal Act as they apply for purposes of this Act in respect of part or all of a liability under this Act of the corporation,

- (a) a payment by the person on account of that person's liability shall to the extent of the payment discharge that person's liability, but

(g) by adding the following after subsection (4):

(5) For the purposes of this section, the fair market value at any time of an undivided interest in a property, expressed as a proportionate interest or right in that property, is deemed to be equal to the same proportion of the fair market value of that property at that time.

subsection as the “corporate partner”) is deemed by subsection 69(11) of the federal Act, as it applies for the purposes of this Act, to have disposed of a property at any time for proceeds of disposition equal to its fair market value at the time, the person referred to in that subsection to whom a benefit described in that subsection was available in respect of a subsequent disposition of the property or property substituted for the property is jointly and severally liable with the corporation or the corporate partner to pay a part of the corporation’s or the corporate partner’s liabilities under this Act in respect of each taxation year equal to the amount determined by the formula

A - B

where

A is the total of amounts payable under this Act by the corporation or the corporate partner in respect of the year, and

B is the amount that would, if the corporation or partnership were not deemed by subsection 69(11) of the federal Act, as it applies for the purposes of this Act, to have disposed of the property, be determined for A in respect of the corporation or the corporate partner in respect of the year,

but nothing under this subsection is deemed to limit the liability of the corporation or the corporate partner under any other provision of this Act.

(2.2) Where a corporation has transferred property, either directly or indirectly, by means of a trust or any other means, to a person with whom the corporation was not dealing at arm’s length, the transferee and transferor are jointly and severally liable to pay under this Act an amount equal to the lesser of

- (a) the amount, if any, by which the fair market value of the property at the time it was transferred exceeds the fair market value at that time of the consideration given for the property, and*
- (b) the total of all amounts each of which is an amount that the transferor is liable to pay under this Act (including, for greater certainty, an amount that the transferor is liable to*

(48) Subsection (47)(a), (b), (c) and (d) apply to assessments made after December 20, 2002.

(49) Subsection (47)(e) and (f) apply to assessments made after 2006, except that

- (a) section 49.1(3.1) of the *Alberta Corporate Tax Act* as enacted by subsection (47)(e) and the portion of section 49.1(4) of the *Alberta Corporate Tax Act* preceding clause (a), as enacted by subsection (47)(f), shall be read without reference to “or subsection 94(17)” in their application to taxation years that end before March 5, 2010, and

pay under this section, regardless of whether the Provincial Minister has made an assessment under subsection (3) for that amount or not) in or in respect of the taxation year in which the property was transferred or any preceding taxation year,

but nothing in this subsection limits the liability of the transferor under any other provision of this Act or of the transferee for the interest that the transferee is liable to pay under this Act on an assessment in respect of the amount that the transferee is liable to pay because of this subsection.

(3) The Provincial Minister may at any time assess a person in respect of any amount payable because of this section, and the provisions of this Part apply, with such modifications as the circumstances require, in respect of an assessment made under this section as though it had been made with respect to a corporation under section 41 or 43.

(4) Where a person has become jointly and severally liable with a corporation under this section in respect of part or all of a liability under this Act of the corporation,

(a) a payment by the person on account of that person's liability discharges the joint liability to the extent of the payment, but

(b) a payment by the corporation on account of that corporation's liability discharges the person's liability only to the extent that the payment operates to reduce the corporation's liability to an amount less than the amount in respect of which the person is, by this section, made jointly and severally liable.

(48) Application of subsection (47)(a), (b), (c) and (d).

(49) Application of subsection (47)(e) and (f).

- (b) if subsection 94(1) of the federal Act, as enacted by section 7 of the *Technical Tax Amendments Act, 2012* (Canada), applies to a taxation year of a person that ends before 2007, section 49.1(3.1) of the *Alberta Corporate Tax Act* applies to assessments made on or after the first day of the first such taxation year of the person to which subsection 94(1) of the federal Act applies.

(50) Section 56(1) is amended by adding the following after clause (g):

- (h) respecting the application of provisions of the federal Act for the purposes of Part 5.1;
- (i) respecting Alberta QET tax credits, including, without limitation, regulations
 - (i) respecting the conditions on which a corporation is entitled to claim an Alberta QET tax credit for a taxation year, and
 - (ii) respecting the application of Alberta QET tax credits against any tax, interest or penalties owing by a corporation to Her Majesty in right of Alberta.

(51) Section 60.1(4.1) is amended by striking out “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” **and substituting** “If an amount has been assessed under this Act in respect of a corporation for a taxation year in which it was a large corporation, or in respect of a particular amount claimed under section 110.1 of the federal Act as it applies for the purposes of this Act where the particular amount was claimed in respect of a tax shelter, subsections (1) to (4) do not”.

(50) Regulation-making authority added.

(51) Section 60.1(4.1) presently reads:

(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

(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.

(52) Section 64 is amended

- (a) in subsection (4) by striking out the portion preceding clause (a) and substituting the following:**

(4) A judge may, on application by the Provincial Minister and subject to any conditions that the judge considers appropriate, authorize the Provincial Minister to impose on a third party a requirement under subsection (1) relating to an unnamed person or more than one unnamed person (in this section referred to as the “group”) if the judge is satisfied by information on oath that

- (b) by repealing subsections (5) to (7).**

(53) Section 92(1.1) is amended by adding “with any modifications that the circumstances require” after “this Part”.

Alberta Personal Income Tax Act

Amends RSA 2000 cA-30

2(1) The *Alberta Personal Income Tax* is amended by this section.

(2) Section 11(2) is repealed and the following is substituted:

(52) Section 64 presently reads in part:

(4) On ex parte application by the Provincial Minister, a judge may, subject to the conditions the judge considers appropriate, authorize the Provincial Minister to demand under subsection (1) that a third party provide or produce information or documents relating to one or more unnamed persons, in this section referred to as the "group", if the judge is satisfied by information on oath that

(a) the group is ascertainable, and

(b) the information or documents are required to verify compliance by the person or persons in the group with any duty or obligation under this Act.

(5) If an authorization is granted under subsection (4), the authorization shall be served with the notice referred to in subsection (1).

(6) If an authorization is granted under subsection (4), a third party on whom a notice is served under subsection (1) may, within 15 days after the service of the notice, apply to a judge for a review of the authorization.

(7) On hearing an application under subsection (6), a judge may cancel the authorization previously granted if the judge is not then satisfied that the conditions in subsection (4)(a) and (b) have been met, and the judge may confirm or vary the authorization if the judge is satisfied that those conditions have been met.

(53) Section 92(1.1) presently reads:

(1.1) Subject to subsection (2), sections 1(2)(g) and (i), (3) and (4), 36.2, 37.1, 39(6), 41(1), (1.11), (1.111) and (1.12), 42, 43, 43.1, 45, 46, 47(2) to (4) and (4.2) to (5), 48 to 72, Part 8 Division 4.1 and 74 to 84 apply for the purposes of this Part.

Alberta Personal Income Tax Act

2(1) Amends chapter A-30 of the Revised Statutes of Alberta 2000.

(2) Section 11(2) presently reads:

(2) Section 118.1 of the federal Act applies for the purposes of this Act, except

- (a) the definition of “first-time donor” included in subsection 118.1(1) for the period March 21, 2013 to December 31, 2017 does not apply,
- (b) subsections 118.1(3.1) and (3.2) included for the period March 21, 2013 to December 31, 2017 do not apply, and
- (c) subsection (1) of this section applies instead of subsection 118.1(3) of the federal Act.

(3) Subsection (2) is deemed to have come into force on March 21, 2013.

(4) Section 13.1(1)(a)(i) is repealed and the following is substituted:

- (i) begins at the earlier of the time that an application is made for registration with a provincial ministry responsible for adoption (or with an adoption agency licensed by a provincial government) and the time, if any, that an application related to the adoption is made to a Canadian court, and

(5) Subsection (4) is deemed to have come into force on January 1, 2013.

(6) Section 16(3) is amended by adding “, and subsection 118.6(2.1) of the federal Act does not apply” after “subsection 118.6(2) of the federal Act”.

(7) Subsection (6) is deemed to have come into force on January 1, 2006.

(8) Section 21 is amended by striking out “and” at the end of clause (f), by adding “and” at the end of clause (g) and by adding the following after clause (g):

(2) Section 118.1 of the federal Act applies for the purposes of this Act except that subsection (1) of this section applies instead of subsection 118.1(3) of the federal Act.

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

(4) Section 13.1(1)(a)(i) presently reads:

13.1(1) In this section,

(a) “adoption period”, in respect of an eligible child of an individual, means the period that

(i) begins at the earlier of the time that the eligible child’s adoption file is opened with a provincial ministry responsible for adoption (or with an adoption agency licensed by a provincial government) and the time, if any, that an application related to the adoption is made to a Canadian court, and

(5) Coming into force of subsection (4).

(6) Section 16(3) presently reads:

(3) Section 118.6 of the federal Act applies for the purposes of this Act except that subsections (1) and (2) of this section apply instead of subsection 118.6(2) of the federal Act.

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

(8) Section 21 presently reads in part:

21 Section 121 of the federal Act applies for the purposes of this Act except that

- (h) for the 2014 taxation year and subsequent taxation years
 - (i) the reference in paragraph (a) to “13/18” is to be read as “13/64”, and
 - (ii) the reference in paragraph (b) to “6/11” is to be read as “69/190”.

(9) Subsection (8) is deemed to have come into force on January 1, 2014.

(10) Section 59(3) is amended by striking out “Subsection 171(1) of the federal Act applies” and substituting “Sections 171, 173 and 174 of the federal Act apply”.

(11) Subsection (10) is deemed to have come into force on July 26, 2013.

(f) for the 2011 taxation year

(i) the reference in paragraph (a) to “2/3” is to be read as “7/40”, and

(ii) the reference in paragraph (b) to “13/23” is to be read as “141/410”,

and

(g) for the 2012 taxation year and subsequent taxation years

(i) the reference in paragraph (a) to “2/3” is to be read as “7/40”, and

(ii) the reference in paragraph (b) to “6/11” is to be read as “69/190”.

(9) Coming into force of subsection (8).

(10) Section 59(3) presently reads:

(3) Subsection 171(1) of the federal Act applies for the purposes of this Act.

(11) Coming into force of subsection (10).

