

2020 Bill 35

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Second Session, 30th Legislature, 69 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 35**

**TAX STATUTES (CREATING JOBS AND  
DRIVING INNOVATION)  
AMENDMENT ACT, 2020**

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THE MINISTER OF TREASURY BOARD AND FINANCE

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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## BILL 35

2020

### TAX STATUTES (CREATING JOBS AND DRIVING INNOVATION) AMENDMENT ACT, 2020

(Assented to \_\_\_\_\_, 2020)

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

**Amends RSA 2000 cA-15**

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

**(2) Section 4.02 is amended**

- (a) in subsection (3)(b) by striking out** “interactive digital media tax credit or film and television tax credit” **and substituting** “interactive digital media tax credit, film and television tax credit or innovation employment grant”;
- (b) in subsection (6) by adding the following after clause (f):**
  - (g)** the amount of any innovation employment grant that is paid to the corporation under section 26.96 in the taxation year.

## Explanatory Notes

### Alberta Corporate Tax Act

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

(2) Section 4.02 presently reads in part:

*(3) Section 261 of the federal Act applies for the purposes of this Act, except that*

*(b) if a particular amount that is determined in the corporation's elected functional currency, other than any Alberta SR&ED tax credit, interactive digital media tax credit or film and television tax credit to which the corporation is entitled, is deemed to be paid at any time on account of an amount payable by the corporation under this Act for the particular taxation year, the particular amount is to be converted to Canadian currency using the relevant spot rate for the day that includes that time,*

*(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:*

**(3) The following is added after section 4.1:**

**Extension of time limits and periods (COVID-19)**

**4.2(1)** Notwithstanding any other provision of this Act or the regulations, if

- (a) by or under the *Time Limits and Other Periods Act (COVID-19)* (Canada)
  - (i) a time limit set out in the federal Act or the federal regulations is suspended or extended, or
  - (ii) a period set out in the federal Act or the federal regulations is extended,

and

- (b) this Act sets out a time limit or period that is, in the opinion of the Provincial Minister, similar or related to the time limit or period referred to in clause (a),

the Provincial Minister may suspend or extend the similar or related time limit or period for the purposes of this Act.

**(2)** If, under subsection (1), a time limit set out in this Act is suspended or extended or a period set out in this Act is extended, then during the period that the suspension or extension is in effect, every reference to that time limit or period in this Act is to be read as a reference to the time limit or period as it is suspended or extended.

**(3)** The instrument by which the Provincial Minister suspends or extends a time limit set out in this Act or extends a period set out in this Act, if it so provides, may be made retroactive to a day not earlier than March 13, 2020.

**(4) Section 21 is amended**

- (a) in clause (t) by striking out “January 1, 2021” and substituting “July 1, 2020”;**

*(f) the amount of any film and television tax credit that is paid to the corporation under section 26.94 in the taxation year.*

(3) Extension of time limits and periods (COVID-19).

(4) Section 21 presently reads in part:

*21 Except where otherwise provided in this Part, the tax payable under this Act by a corporation that has a taxation year*

**(b) in clause (u)**

- (i) by striking out** “January 1, 2020 and” **and substituting** “January 1, 2020,”;
- (ii) by adding** “and ending before July 1, 2020” **after** “December 31, 2019”;

**(c) by repealing clauses (v) to (y) and substituting the following:**

- (v) beginning after June 30, 2020 is 8.0% of the amount taxable in Alberta for the year, or
- (w) part of which is before July 1, 2020 and part of which is after June 30, 2020, is the aggregate of
  - (i) 12.0% of the proportion of the amount taxable in Alberta for the year that the number of days before July 1, 2019 bears to the number of days in the year,
  - (ii) 11.0% of the proportion of the amount taxable in Alberta for the year that the number of days after June 30, 2019 and before January 1, 2020 bears to the number of days in the year,
  - (iii) 10.0% of the proportion of the amount taxable in Alberta for the year that the number of days after December 31, 2019 and before July 1, 2020 bears to the number of days in the year, and
  - (iv) 8.0% of the proportion of the amount taxable in Alberta for the year that the number of days after June 30, 2020 bears to the number of days in the year.

- (t) *beginning after December 31, 2019 and ending before January 1, 2021 is 10.0% of the amount taxable in Alberta for the year,*
- (u) *part of which is before January 1, 2020 and part of which is after December 31, 2019, is the aggregate of*
  - (i) *12.0% of the proportion of the amount taxable in Alberta for the year that the number of days before July 1, 2019 bears to the number of days in the year,*
  - (ii) *11.0% of the proportion of the amount taxable in Alberta for the year that the number of days after June 30, 2019 and before January 1, 2020 bears to the number of days in the year, and*
  - (iii) *10.0% of the proportion of the amount taxable in Alberta for the year that the number of days after December 31, 2019 bears to the number of days in the year,*
- (v) *beginning after December 31, 2020 and ending before January 1, 2022 is 9.0% of the amount taxable in Alberta for the year,*
- (w) *part of which is before January 1, 2021 and part of which is after December 31, 2020, is the aggregate of*
  - (i) *10.0% of the proportion of the amount taxable in Alberta for the year that the number of days before January 1, 2021 bears to the number of days in the year, and*
  - (ii) *9.0% of the proportion of the amount taxable in Alberta for the year that the number of days after December 31, 2020 bears to the number of days in the year,*
- (x) *beginning after December 31, 2021 is 8.0% of the amount taxable in Alberta for the year, or*
- (y) *part of which is before January 1, 2022 and part of which is after December 31, 2021, is the aggregate of*
  - (i) *9.0% of the proportion of the amount taxable in Alberta for the year that the number of days before January 1, 2022 bears to the number of days in the year, and*

**(5) Section 22 is amended**

- (a) in subsection (2.1297)(c) by striking out “January 1, 2021” and substituting “July 1, 2020”;**
- (b) in subsection (2.1298)**
  - (i) by striking out “taxation year ending after December 31, 2020” and substituting “taxation year ending after June 30, 2020”;**
  - (ii) by repealing clause (b) and substituting the following:**
    - (b) 6.0%;**
  - (iii) in clause (c) by striking out “after December 31, 2020 and before January 1, 2022” and substituting “after June 30, 2020”.**
- (c) by repealing subsection (2.1299);**
- (d) in subsection (2.2) by striking out “(2.1297), (2.1298) and (2.1299)” and substituting “(2.1297) and (2.1298)”.**



- (ii) *8.0% of the proportion of the amount taxable in Alberta for the year that the number of days after December 31, 2021 bears to the number of days in the year.*

(5) Section 22 presently reads in part:

*(2.1297) There may be deducted from the tax payable under section 21 for a taxation year ending after December 31, 2019 by a corporation that was, throughout the year, a Canadian-controlled private corporation an amount equal to the product obtained by the multiplication of the following:*

- (c) the proportion of the least of the following amounts that the number of days in the year after December 31, 2019 and before January 1, 2021 bears to the number of days in the year:*
  - (i) the amount determined under subsection (2.1293)(c)(i);*
  - (ii) the amount determined under subsection (2.1293)(c)(ii);*
  - (iii) the corporation's business limit for the year.*

*(2.1298) There may be deducted from the tax payable under section 21 for a taxation year ending after December 31, 2020 by a corporation that was, throughout the year, a Canadian-controlled private corporation an amount equal to the product obtained by the multiplication of the following:*

- (b) 7.0%;*
- (c) the proportion of the least of the following amounts that the number of days in the year after December 31, 2020 and before January 1, 2022 bears to the number of days in the year:*
  - (i) the amount determined under subsection (2.1293)(c)(i);*
  - (ii) the amount determined under subsection (2.1293)(c)(ii);*
  - (iii) the corporation's business limit for the year.*

*(2.1299) There may be deducted from the tax payable under section 21 for a taxation year ending after December 31, 2021 by a corporation that was, throughout the year, a Canadian-controlled*

**(6) The following is added after section 26.94:**

**Division 7  
Innovation Employment  
Grant**

**Interpretation**

**26.95(1)** In this Division,

- (a) “Alberta proxy amount” means the amount determined under subsection (3);
- (b) “innovation employment grant” means the amount calculated or determined under section 26.96;
- (c) “eligible expenditures” means the amount determined under subsection (2);

*private corporation an amount equal to the product obtained by the multiplication of the following:*

- (a) the small business allocation factor for the year;*
- (b) 6.0%;*
- (c) the proportion of the least of the following amounts that the number of days in the year after December 31, 2021 bears to the number of days in the year:*
  - (i) the amount determined under subsection (2.1293)(c)(i);*
  - (ii) the amount determined under subsection (2.1293)(c)(ii);*
  - (iii) the corporation's business limit for the year.*

*(2.2) For the purposes of subsections (2), (2.11), (2.12), (2.121), (2.122), (2.123), (2.124), (2.125), (2.126), (2.127), (2.128), (2.129), (2.1291), (2.1292), (2.1294), (2.1295), (2.1296), (2.1297), (2.1298) and (2.1299), the "small business allocation factor" is the Alberta allocation factor that would be determined if, during the taxation year, the corporation had no permanent establishment in a country other than Canada.*

(6) Division 7 Innovation Employment Grant.

- (d) “federal expenditures” of a corporation for a taxation year means those amounts included in the SR&ED qualified expenditure pool at the end of the taxation year of the corporation as determined for purposes of the federal Act under subsection 127(9) of the federal Act and for greater certainty does not include any amount in respect of which a qualified corporation is required to add an amount determined under subsection 127(8) or (8.3) of the federal Act;
- (e) “base amount” means the amount determined under section 26.97(1);
- (f) “maximum expenditure limit” for a taxation year means the amount determined under section 26.98;
- (g) “qualified corporation” means a corporation that
  - (i) has a permanent establishment in Alberta at any time during the taxation year, and
  - (ii) carries on scientific research and experimental development in Alberta during the taxation year,
 but does not include a corporation that is exempt from tax in the taxation year under this Act by virtue of section 35, other than a prescribed corporation;
- (h) “scientific research and experimental development” has the meaning assigned by subsection 248(1) of the federal Act.

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

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

where

A is the sum of federal expenditures of the corporation for the taxation year that are in respect of scientific research and experimental development carried out in Alberta after December 31, 2020,



- 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,
- C is the Alberta proxy amount, if any, for the taxation year,
- D is the amount, if any, in respect of an innovation employment grant that reduced federal expenditures of the corporation for the taxation year, and
- E is the amount of a repayment, in the taxation year, of
- (a) government assistance, other than an innovation employment grant, 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.

**(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, 55% 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 after December 31, 2020.

**(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 for the taxation year or the transferor corporation for the same taxation year and was in respect of scientific research and experimental development carried out in Alberta after December 31, 2020.



(5) For the purpose of determining the sum described in the definition of A in subsection (2) for a qualified corporation, the Provincial Minister may disallow such amounts that, in the opinion of the Provincial Minister, are not qualified expenditures as defined in subsection 127(9) of the federal Act, irrespective of whether the expenditure forms part of the federal expenditures of the corporation for the taxation year.

**Grant calculation and deduction**

**26.96(1)** For taxation years ending after December 31, 2020, a qualified corporation is entitled to an innovation employment grant in the amount determined by the formula

$$L \times M$$

where

L is the aggregate of

- (a) the product of 8% and 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,
- and
- (b) the product of 12% and the amount, if any, by which 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

exceeds the corporation's base amount for the year;

M is the ratio determined by the formula

$$(\$40 \text{ million} - C) / \$40 \text{ million}$$

where





C has the meaning of variable A in the formula set out in subsection 127(10.2) of the federal Act, read as if references in that subsection to the “particular corporation” and the “particular taxation year” were references to the “qualified corporation” and 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 innovation employment grant 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 innovation employment grant 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)** No amount shall be included in determining the innovation employment grant 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 15 months after the day on or before which the corporation is required to file its return for the taxation year pursuant to section 36.

**(6)** Notwithstanding subsection (1), if at any time (in this subsection referred to as the “particular time”) after December 31, 2020

- (a) control of a qualified corporation (in this subsection referred to as the “particular corporation”) has been acquired by a person, and



- (b) the Provincial Minister is satisfied that the result of the acquisition of control of the particular corporation is that the amount of the innovation employment grant to which the particular corporation, or any corporation with which it is associated in the calendar year in which the particular time falls, is entitled is greater than the amount of the innovation employment grant to which the particular corporation, or any corporation with which the particular corporation is associated in the calendar year in which the particular time falls, would have been entitled, had control of the corporation not been acquired,

the Provincial Minister may determine the amount of the innovation employment grant to which the particular corporation or any corporation with which it is associated in the calendar year in which the particular time falls is entitled for taxation years that end in the same calendar year as that in which the particular time falls.

(7) Notwithstanding subsection (1), if at any time after December 31, 2020, a qualified corporation (in this subsection referred to as the “particular corporation”), by reason of an amalgamation or otherwise,

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

the Provincial Minister may determine the amount of innovation employment grant to which

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



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

**(8)** Notwithstanding subsection (1), if

- (a) one or more of the preceding taxation years referred to in section 26.97(1)(a) or (b) is shorter than 365 days, and
- (b) the Provincial Minister is satisfied that the result of the taxation year being shorter than 365 days is that the amount of the innovation employment grant to which the particular corporation or any corporation with which it is associated is entitled is greater than the amount of the innovation employment grant to which the particular corporation or any corporation with which it is associated would have been entitled, had the taxation year been 365 days,

the Provincial Minister may determine the amount of the innovation employment grant to which the particular corporation or any corporation with which it is associated is entitled.

**(9)** When a preceding taxation year referred to in subsection (8)(a) includes February 29, the references to “365” in subsection (8) are to be read as references to “366”.

**(10)** Notwithstanding subsection (1), in determining a qualified corporation’s (in this subsection referred to as the particular corporation) innovation employment grant for a taxation year (in this subsection referred to as the particular year), if

- (a) the particular corporation is controlled directly or indirectly in any manner whatever by the same person or group of persons who controlled another corporation (in this subsection referred to as the other corporation) that was dissolved before the beginning of the particular year, and



- (b) the Provincial Minister is satisfied that the result of the other corporation having been dissolved is that the amount of the innovation employment grant to which the particular corporation or any corporation with which it is associated is entitled is greater than the amount of the innovation employment grant to which the particular corporation or any corporation with which it is associated would have been entitled, had the other corporation not been dissolved,

the Provincial Minister may determine the amount of the innovation employment grant to which the particular corporation or any corporation with which it is associated is entitled.

**(11)** Notwithstanding any other provision in this Act, no interest is payable by the Provincial Minister in respect of an amount payable to a qualified corporation under this section.

**Base amount**

**26.97(1)** Subject to subsection (2), a qualified corporation's base amount for a taxation year (in this subsection referred to as the particular taxation year) is,

- (a) where the qualified corporation is not associated with any other corporation in the particular taxation year, the amount that is the average of the eligible expenditures of the qualified corporation for the two taxation years immediately preceding the particular taxation year, and
- (b) where the qualified corporation is associated with one or more other corporations in the particular taxation year, the amount that is the average of
  - (i) the total of all amounts, each of which is the eligible expenditures of the qualified corporation for its, or of one of the other corporations for its, last taxation year that ended in the last calendar year that ended before the end of the particular taxation year, and
  - (ii) the total of all amounts, each of which is the eligible expenditures of the qualified corporation for its, or of one of the other corporations for its, taxation year immediately preceding the taxation year described in subclause (i).





(2) In determining a qualified corporation's base amount for a taxation year, a corporation's eligible expenditures for a preceding taxation year is the amount, if any, that would be the corporation's eligible expenditures if section 26.95 were read as if each instance of the expression "after December 31, 2020" were struck out.

**Maximum expenditure limit**

**26.98(1)** Subject to subsection (2), if a qualified corporation is not associated with one or more corporations in a taxation year, its maximum expenditure limit for the taxation year is

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

(2) If the taxation year of a qualified corporation referred to in subsection (1) begins before January 1, 2021 and ends after December 31, 2020, the maximum expenditure limit of the corporation for that year is the proportion of \$4 000 000 that the number of days in the taxation year in 2021 is of 365.

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

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



**(5)** The maximum expenditure limit allocated to a qualified corporation that is associated with one or more corporations in its taxation year that begins before January 1, 2021 and ends after December 31, 2020 cannot exceed the proportion of \$4 000 000 that the number of days in the taxation year in 2021 bears to 365.

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

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

**(7)** If the taxation year of one or more of the corporations referred to in subsection (6) begins before January 1, 2021 and ends after December 31, 2020, the maximum expenditure limit to be allocated among the corporations that are associated with each other in the taxation year is the proportion of \$4 000 000 that the number of days after December 31, 2020 in the taxation year of the corporation that has the greatest number of days after December 31, 2020 in its 2021 taxation year bears to 365.

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

**(9)** If 2 or more qualified corporations that are associated with each other file an agreement in the prescribed form with the Provincial Minister, the Provincial Minister shall allocate the maximum expenditure limit among the corporations in accordance with the agreement if the agreement

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



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

**Recapture**

**26.99(1)** For the purposes of subsections (2) and (3), the applicable percentage is the percentage determined by the formula

$$A / B$$

where

- A is the qualified corporation's innovation employment grant for the taxation year in which the property was acquired;
- B is the lesser of the qualified corporation's eligible expenditures for the taxation year in which the property was acquired and the corporation's maximum expenditure limit for that taxation year.

**(2) Where**

- (a) a qualified corporation acquired a particular property from a person or partnership in a taxation year of the corporation or in any of the 20 preceding taxation years,
- (b) the cost, or a portion of the cost, of the particular property was an amount
  - (i) included in, or
  - (ii) if the SR&ED qualified expenditure pool referred to in the definition of federal expenditures were determined without reference to subsection 127(26) of the federal Act, that would be included in



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

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

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

- (d) the amount that can reasonably be considered to have been received by the corporation as an innovation employment grant, or that would have been received by the corporation if the SR&ED qualified expenditure pool referred to in the definition of federal expenditures were determined without reference to subsection 127(26) of the federal Act at the end of any taxation year referred to in clause (a) in respect of the particular property, and
- (e) the product of the ratio as defined in B in section 26.991(3) and the applicable percentage of
  - (i) in the case where the particular property or the other property is disposed of to a person who deals at arm's length with the corporation, the proceeds of disposition of the property, and
  - (ii) in the case where the particular property or the other property is converted to commercial use or is disposed of to a person who does not deal at arm's length with the corporation, the fair market value of the property at the time of its conversion or disposition.

**(3) Where**

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





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

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

- (e) the amount that can reasonably be considered to have been received by the transferee as an innovation employment grant in respect of the property that was the subject of the agreement, and
- (f) the product of the ratio as defined in B in section 26.991(3) as it applies to the transferee and the amount determined by the formula

$$R \times C - D$$

where

R is the applicable percentage as determined under subsection (1);

C is

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

D is the amount, if any, added to the corporation’s tax payable under subsection (2) in respect of the particular property.



### General Provisions

**26.991(1)** Where at any time a particular property, or another property that incorporates the particular property, ceases to be located in Alberta, the particular property or the other property that incorporates the particular property is, for purposes of section 26.99, deemed to have been disposed of to a person who deals at arm's length with the corporation for proceeds of disposition equal to the fair market value of the property at that time.

**(2)** For the purpose of applying section 26.99(2) or (3) in respect of a corporation, the reference to "20" in that subsection is to be read as a reference to the number that is the lesser of

- (a) 20, and
- (b) the number of taxation years of the corporation that end after 2020.

**(3)** For the purposes of section 26.99, the amount that can reasonably be considered to have been included in a corporation's innovation employment grant in respect of a particular property is equal to the amount determined by the formula

$$R \times A \times B$$

where

R is the applicable percentage as determined under section 26.99(1);

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

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

**(4)** For the purposes of subsection (3), if a qualified corporation included an amount in respect of the same property in eligible expenditures in more than one taxation year, it shall



calculate the amount referred to in subsection (3) in respect of each taxation year, and the amount that can reasonably be considered to have been included in its innovation employment grant is the aggregate of the amounts so calculated for each of the taxation years in which an amount in respect of the same property was included.

**(5)** If the Provincial Minister is satisfied that

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

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

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

- (a) lack any substantial business purpose, other than increasing the innovation employment grant to which it or any qualified corporation is otherwise entitled, or
- (b) artificially increase the innovation employment grant that may be claimed by it or any qualified corporation,

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

**(7)** A direction made under subsection (5) or (6)

- (a) does not apply to a taxation year of any qualified corporation prior to the taxation year for which the direction is made, and



- (b) may be revoked by the Provincial Minister and, if revoked, does not apply to the taxation year to which the revocation relates or to any subsequent taxation year.

**(7) Section 36(1.11) is amended**

- (a) by striking out “or” at the end of clause (c);**
- (b) by adding “or” at the end of clause (d);**
- (c) by adding the following after clause (d):**
  - (e) a qualified corporation that is claiming an innovation employment grant under Division 7 of Part 6 for the taxation year.

**(8) Section 37(1)(a) is amended**

- (a) by striking out “and” at the end of subclause (vii);**
- (b) by adding “and” at the end of subclause (viii);**
- (c) by adding the following after subclause (viii):**
  - (ix) the innovation employment grant under Division 7 of Part 6 to which the corporation is entitled for the year.

**(9) Section 41 is amended by adding the following after subsection (1.01):**

**(1.02)** Notwithstanding subsection (1), the Provincial Minister shall not determine the amount of the innovation employment grant under Division 7 of Part 6 to which a corporation is entitled until after the time prescribed by the regulations.

**(10) Section 43 is amended**

- (a) in subsection (1)**
  - (i) by striking out “or” at the end of clause (d);**



(7) Section 36(1.11) presently reads:

*(1.11) Subsection (1.1) does not apply to*

- (c) a corporation that is claiming an interactive digital media tax credit under section 26.93 for the taxation year, or*
- (d) a corporation that is claiming a film and television tax credit under section 26.94 for the taxation year.*

(8) Section 37(1)(a) presently reads in part:

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

- (a) an amount equal to 5% of the amount by which the aggregate of*
- (vii) the interactive digital media tax credit under section 26.93 to which the corporation is entitled for the year, and*
- (viii) the film and television tax credit under section 26.94 to which the corporation is entitled for the year,*

(9) Section 41(1.01) presently reads:

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

(10) Section 43 presently reads in part:

*(1) The Provincial Minister may at any time make an assessment, reassessment or additional assessment of tax for a taxation year, interest or penalties, if any, payable under this Act by a corporation, notify in writing any corporation by whom a return for a taxation*

**(ii) by adding “or” at the end of clause (e);**

**(iii) by adding the following after clause (e):**

- (f) the assessment is the first assessment in respect of the corporation’s innovation employment grant for the year or is an additional assessment or reassessment made on or before the day that is 3 years, in the case of a corporation eligible for the small business deduction, or 4 years, in any other case, after the day of sending of the first assessment in respect of the innovation employment grant for the year.

**(b) in subsection (1.02)**

**(i) by striking out “(d) or (e)” and substituting “(d), (e) or (f)”;**

**(ii) by striking out “and” at the end of clause (d);**

**(iii) by adding “and” at the end of clause (e);**

**(iv) by adding the following after clause (e):**

- (f) where subsection (1)(f) applies to the assessment, reassessment or additional assessment, the innovation employment grant to which the corporation was entitled.

**(11) Subsections (4) and (5) have effect on July 1, 2020.**

**(12) Subsections (2) and (6) to (10) have effect on January 1, 2021.**

*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*

*(d) the assessment is the first assessment in respect of the corporation's interactive digital media tax credit for the year or is an additional assessment or reassessment made on or before the day that is 3 years, in the case of a corporation eligible for the small business deduction, or 4 years, in any other case, after the day of sending of the first assessment in respect of the interactive digital media tax credit for the year, or*

*(e) the assessment is the first assessment in respect of the corporation's film and television tax credit for the year or is an additional assessment or reassessment made on or before the day that is 3 years, in the case of a corporation eligible for the small business deduction, or 4 years, in any other case, after the day of sending of the first assessment in respect of the film and television tax credit for the year.*

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

*(d) where subsection (1)(d) applies to the assessment, reassessment or additional assessment, the interactive digital media tax credit to which the corporation was entitled, and*

*(e) where subsection (1)(e) applies to the assessment, reassessment or additional assessment, the film and television tax credit to which the corporation was entitled.*

(11) Coming into force.

(12) Coming into force.

## **Alberta Personal Income Tax Act**

### **Amends RSA 2000 cA-30**

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

**(2)** The following is added before section 21:

#### **Transfer of tax credits**

**20.1(1)** Section 118.8 of the federal Act applies for the purposes of this Act, except that subparagraph (b)(i) in the description of C in that section shall be read as nil.

**(2)** In applying subsection (1), where a spouse or common-law partner or individual did not reside in Alberta on the last day of the calendar year, any credits transferred by the spouse or common-law partner or individual to another individual for the year under this section are to be computed on the basis that the spouse or common-law partner or individual is liable under section 3 to pay tax for the year.

**(3)** Section 21 is amended

- (a)** by adding “and” at the end of clause (a);
- (b)** by repealing clause (b);
- (c)** in clause (c) by striking out “2022” and substituting “2021”.

## Alberta Personal Income Tax Act

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

(2) Transfer of tax credits.

(3) Section 21 presently reads in part:

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

*(a) for the 2019 and 2020 taxation years*

*(i) the reference in paragraph (a) to “9/13” is to be read as “149/890”, and*

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

*(b) for the 2021 taxation year*

*(i) the reference in paragraph (a) to “9/13” is to be read as “149/890”, and*

*(ii) the reference in paragraph (b) to “6/11” is to be read as “114/347”,*

*and*

*(c) for the 2022 and subsequent taxation years*

**(4) Subsection (2) has effect on January 1, 2020.**

**(5) Subsection (3) has effect on January 1, 2021.**

(i) *the reference in paragraph (a) to “9/13” is to be read as “149/890”, and*

(ii) *the reference in paragraph (b) to “6/11” is to be read as “227/770”.*

(4) Coming into force.

(5) Coming into force.

