

# BILL

No. 8 of 1932.

An Act to authorize the Levying of a Tax upon Incomes.

(Assented to \_\_\_\_\_, 1932.)

**H**IS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Income Tax Act.*"

2. In this Act, and in any regulations made hereunder, unless the context requires a contrary meaning—

- (a) "Dividends" shall include stock dividends;
- (b) "Employed in Alberta" means regularly or continuously employed to perform personal services, any part of which is performed in Alberta, for salary, wages, commissions, fees or other remuneration, whether directly or indirectly received, derived from sources within Alberta;
- (c) "Family corporation" means a corporation (other than a "personal corporation") seventy-five per centum of the stock of which is owned by the members of one family, one or more of which members take an active part in the business operations of the corporation, or a corporation (other than a "personal corporation") eighty per centum of the stock of which is owned by persons actively employed in the business of the corporation or by such persons and their families;
- (d) "Gross revenue" (where a personal corporation has revenue from more than one source) means the sum of the net profits from each source;
- (e) "Minister" means the Provincial Treasurer; or such other member of the Executive Council as may be designated by the Lieutenant Governor in Council;
- (f) "Person" includes any body corporate and politic and any association or other body, and the heirs, executors, administrators and curators or other legal representatives of such person.
- (g) "Personal corporation" means a corporation or joint stock company (no matter when or where created) controlled directly or indirectly by one person, who resides in Alberta, or by one such person

and his wife or any member of his family, or by any combination of them, or by any other person or corporation on his or their behalf, whether through holding a majority of the stock of such corporation, or in any other manner whatsoever, the gross revenue of which is to the extent of one quarter or more derived from one or more of the following sources, namely:

- (i) From the ownership of or the trading or dealing in bonds, stocks or shares, debentures, mortgages, hypothecs, bills, notes or other similar property;
- (ii) From the lending of money with or without security, or by way of rent, annuity, royalty, interest or dividend; or
- (iii) From or by virtue of any right, title or interest in or to any estate or trust;
- (h) "Superintendent of Income Tax" means the officer appointed by the Lieutenant Governor in Council pursuant to the provisions of this Act;
- (i) "Taxpayer" means any person paying, liable to pay, or believed by the Minister to be liable to pay, any tax imposed by this Act;
- (j) "Year" means the calendar year.

**3.** Without limiting the meaning of "income," for the purposes of this Act, "income" includes the annual net profit or gain or gratuity, whether ascertained and capable of computation as being wages, salary, or other fixed amount, or unascertained as being fees or emoluments, or as being profits from a trade, or commercial, or financial, or other business or calling, directly or indirectly received by a person from any office or employment, or from any profession or calling, or from any trade, manufacture or business, as the case may be, whether derived from sources within Alberta or elsewhere; and shall include the interest, dividends or profits directly or indirectly received from money at interest upon any security or without security, or from stocks, or from any other investment, and, whether such gains or profits are divided or distributed or not, and also the annual profit or gain from any other source including—

- (a) the income from, but not the value of, property acquired by gift, bequest, devise or descent; and
- (b) the income from, but not the proceeds of life insurance policies paid upon the death of the person insured, or payments made or credited to the insured on life insurance endowment or annuity contracts upon the maturity of the term mentioned in the contract or upon the surrender of the contract; and
- (c) any payment to any employee out of any employees' superannuation or pension fund or plan; and

- (d) the salaries, indemnities or other remuneration of—
  - (i) members of the Senate and House of Commons of Canada and officers thereof;
  - (ii) members of Provincial Legislative Councils and Assemblies of the Province of Alberta;
  - (iii) members of Municipal Councils, Commissions or Boards of Management;
  - (iv) any judge of any Dominion or Provincial Court;
  - (v) all persons whatsoever, whether the said salaries, indemnities or other remuneration are paid out of the revenue of His Majesty in respect of his Government of Canada, or of any Province thereof, or by any person, except as herein otherwise provided, and
- (e) personal and living expenses when such form part of the profit, gain or remuneration of the taxpayer.

**4.** The following incomes shall not be liable to taxation hereunder:

- (a) The income of consuls and consuls-general of a foreign country whose duties require them to reside in Alberta, if and only if they are citizens of the country they represent and are not engaged in any business or calling other than the duties appertaining to their official position and provided that the country they represent grants a similar exemption to officials of the Government of the Province of Alberta;
- (b) The income of any company, commission or association not less than ninety per cent of the stock or capital of which is owned by a province or a municipality;
- (c) The income of any religious, charitable, agricultural and educational institutions, boards of trade and chambers of commerce;
- (d) The income of labour organizations and societies, and of benevolent and fraternal beneficiary societies and orders;
- (e) The income of mutual corporations not having a capital represented by shares, no part of the income of which inures to the profit of any member thereof, and of life insurance companies except such amount as is credited to shareholders' account;
- (f) The income of clubs, societies and associations organized and operated solely for social welfare, civic improvement, pleasure, recreation or other non-profitable purposes, no part of the income of which inures to the benefit of any stockholder or member;
- (g) The income of such insurance, mortgage and loan associations operated entirely for the benefit of farmers as are approved by the Minister;

- (h) The income derived from any bonds or other securities of the Province of Alberta issued exempt from any income tax imposed in pursuance of any legislation enacted by the Legislative Assembly of the Province of Alberta;
- (i) The income of incorporated companies whose business and assets are carried on and situate entirely outside of Alberta;
- (j) Any pension granted to any member of His Majesty's military, naval or air forces, or to any member of the military, naval or air forces of His Majesty's allies for any disability suffered by the pensioner while serving in any of His Majesty's forces or in the forces of His Majesty's allies during the war that began in August, one thousand nine hundred and fourteen, and any pension granted to any dependent relative of any person who was killed or suffered any disability while serving in the said forces in the said war;
- (k) Dividends paid to an incorporated company by a company incorporated in the Province of Alberta the profits of which have been taxed under this Act, except as hereinafter provided by section 18;
- (l) Dividends received by an incorporated company from a company incorporated outside of the Province of Alberta to the extent that the latter corporation has earned income within the Province of Alberta and actually paid a tax in respect of such income under this Act:

Provided that in computing the proportion or fractional part of the dividend free from taxation in the hands of a recipient corporation, as provided by this paragraph, the Minister's determination shall be final and conclusive;

- (m) The income of farmers', dairymen's, live-stockmen's, fruit growers', poultrymen's, fishermen's and other like co-operative companies and associations, whether with or without share capital, organized and operated on a co-operative basis, which organizations—
  - (i) market the products of the members or shareholders of such co-operative organizations under an obligation to pay to them the proceeds from the sales on the basis of quantity and quality, less necessary expenses and reserves; or
  - (ii) purchase supplies and equipment for the use of such members under an obligation to turn such supplies and equipment over to them at cost, plus necessary expenses and reserves.

Such companies and associations may market the produce of, or purchase supplies and equipment for non-members of the company or association pro-

vided the value thereof does not exceed twenty per centum of the value of produce, supplies or equipment marketed or purchased for the members or shareholders.

This exemption shall extend to companies and associations owned or controlled by such co-operative companies and associations and organized for the purpose of financing their operations.

**5.—(1)** “Income” as hereinafter defined shall for the purposes of this Act be subject to the following exemptions and deductions:

- (a) Such reasonable amount as the Minister in his discretion may allow for depreciation, and the Minister in determining the income derived from mining and from oil and gas wells and timber limits shall make such an allowance for the exhaustion of the mines, wells and timber limits as he may deem just and fair; and in the case of leases of mines, oil and gas wells and timber limits, the lessor and the lessee shall each be entitled to deduct a part of the allowance for exhaustion as they agree, and in case the lessor and the lessee do not agree, the Minister shall have full power to apportion the deduction between them and his determination shall be conclusive;
- (b) Such reasonable rate of interest on borrowed capital used in the business to earn the income as the Minister in his discretion may allow notwithstanding the rate of interest payable by the taxpayer, but to the extent that the interest payable by the taxpayer is in excess of the amount allowed by the Minister hereunder, it shall not be allowed as a deduction and the rate of interest allowed shall not in any case exceed the rate stipulated for in the bond, debenture, mortgage, note, agreement or other similar document, whether with or without security, by virtue of which the interest is payable;
- (c) One thousand five hundred dollars in the case of a married person or any other person who has dependent upon him any of the following persons—
  - (i) a parent or grandparent;
  - (ii) a daughter or sister;
  - (iii) a son or brother under twenty-one years of age or incapable of self-support on account of mental or physical infirmity;
- (d) Seven hundred and fifty dollars in the case of other persons;
- (e) Four hundred dollars for each child under twenty-one years of age who is dependent upon the tax-

payer for support, or if twenty-one years of age or over, is incapable of self-support on account of mental or physical infirmity;

- (f) Travelling expenses, including the entire amount expended for meals and lodging, while away from home in the pursuit of a trade or business;
- (g) Any part of the remuneration of a taxpayer retained by his employer in connection with an employee's superannuation or pension fund or plan;
- (h) In case of a trust established in connection with, or a corporation incorporated for the administration of an employees' superannuation or pension fund or plan, the income from the investment of the superannuation or pension funds shall be exempt if the trustee or corporation so elects; and in such event the exemption provided for by the next preceding paragraph shall not be allowed but any payment to an employee out of the fund shall, notwithstanding anything contained in this Act, be exempt according to the proportion that the sum of the amounts paid by the employee into the fund (after the effective date of the election) bears to the total amount paid by him into the fund;

Election shall be effected by writing, addressed to the Minister, signed by the trustee or corporation in control of the fund;

Notwithstanding the date of election, the Minister shall have full power to determine from what date the election shall take effect;

- (i) For each parent, grandparent, brother or sister, incapable of self-support on account of mental or physical infirmity, who is dependent upon the taxpayer for support, a further exemption of four hundred dollars except in cases wherein exemption (whether of four hundred dollars or seven hundred and fifty dollars) in respect of such persons is already provided for in this Act;
- (j) Contributions made by persons employed by the Province towards the general revenue of the Province out of the salary or remuneration payable to such persons by the Province.

(2) Where a husband and wife have each a separate income in excess of seven hundred and fifty dollars, each shall receive an exemption of seven hundred and fifty dollars in lieu of the exemption set forth in paragraph (c) of the immediately preceding subsection.

(3) The exemption for any dependent child may be taken by either parent under arrangement between themselves; and in the event of any dispute arising between them the said exemption shall be allowed to the father of the said child.

**6.** In computing the amount of the profits or gains to be assessed, a deduction shall not be allowed in respect of—

- (a) disbursements or expenses not wholly, exclusively and necessarily laid out or expended for the purpose of earning the income;
- (b) any outlay, loss or replacement of capital or any payment on account of capital or any depreciation, depletion or obsolescence, except as otherwise provided in this Act;
- (c) the annual value of property, real or personal, except rent actually paid for the use of such property, used in connection with the business to earn the income subject to taxation;
- (d) amounts transferred or credited to a reserve, contingent account or sinking fund, except such an amount for bad debts as the Minister may allow and except as otherwise provided in this Act;
- (e) carrying charges or expenses of unproductive property or assets not acquired for the purposes of a trade, business or calling or of a liability not incurred in connection with a trade, business or calling;
- (f) personal and living expenses.

**7.—(1)** A taxpayer shall be entitled to deduct from the tax that would otherwise be payable by him under this Act the amount paid to any other Province of Canada or to Great Britain or any of its self-governing dominions, colonies or dependencies other than the Dominion of Canada for income tax in respect of the income of the taxpayer derived from sources therein if such Province or Great Britain or such self-governing dominion, colony or dependency imposing such tax allows a similar credit to persons in receipt of income derived from sources within Alberta.

(2) Such deduction shall not at any time exceed the amount of tax which would otherwise be payable under the provisions of this Act in respect of the said income derived from sources within such other Province of Canada or Great Britain or any of its aforesaid self-governing dominions, colonies or dependencies.

(3) Any such deduction shall be allowed only if the taxpayer furnishes evidence satisfactory to the Minister showing the amount of tax paid and the particulars of income derived from sources within any other Province of Canada or Great Britain or any of its aforesaid self-governing dominions, colonies or dependencies.

**8.—(1)** There shall be assessed, levied and paid upon the income during the preceding year of every person—

- (a) residing or ordinarily resident in the Province of Alberta during such year; or
- (b) who sojourns in Alberta for a period or periods amounting to one hundred and eighty-three days during such year; or

- (c) who is employed in Alberta during such year; or
- (d) who, not being resident in Alberta, is carrying on business in Alberta during such year; or
- (e) who, not being resident in Alberta, derives income for services rendered in Alberta during such year, otherwise than in the course of regular or continuous employment, for any person resident or carrying on business in Alberta—

a tax at the rates applicable to persons other than corporations and joint stock companies set forth in the first schedule of this Act upon the amount of income in excess of the exemptions provided in this Act, and every person in respect of whose income any tax has been so assessed and levied shall pay the amount of the tax so assessed and levied together with an additional sum of three dollars:

Provided that the said rates shall not apply to corporations and joint stock companies.

(2) Save as herein otherwise provided, all corporations and joint stock companies, no matter how created or organized, except only corporations carrying on the business of banking and railway companies, express companies, grain companies, insurance companies, land companies, loan companies, telegraph companies, and trust companies shall pay a tax, at the rate applicable thereto set forth in the first schedule of this Act, upon income exceeding one thousand dollars together with an additional sum of three dollars.

(3) Every gas company shall be entitled to deduct from the tax payable in any year by such company under this Act any amounts not in excess of the last mentioned tax actually paid by such company in that year in respect of the taxes payable by such company in that year pursuant to any of the provisions of *The Corporations Taxation Act*.

(4) Every electric lighting company and every power company shall be entitled to deduct from the tax payable in any year by any such company under this Act any amounts not in excess of the last mentioned tax actually paid by such company in that year to the Province in respect of any taxes payable by such company in that year to the Province pursuant to any of the provisions of *The Electric Power Taxation Act* and *The Corporations Taxation Act*, or either of them.

(5) In the case of any corporation which is a public utility within the meaning of *The Public Utilities Act, 1923*, and the charges of which to the public are fixed or regulated by the Board of Public Utility Commissioners, no allowance shall be made by such Board in fixing or regulating any such charges for any tax payable by such corporation pursuant to this Act.

**9.—**(1) In any case the income of a taxpayer shall be deemed to be not less than the income derived from his chief position, occupation, trade, business or calling.



(2) Where a taxpayer has income from more than one source by virtue of filling or exercising more than one position, occupation, trade, business or calling, the Minister shall have full power to determine which one or more, or which combination thereof shall, for the purpose of this Act, constitute the taxpayer's chief position, occupation, trade, business or calling, and the income therefrom shall be taxed accordingly.

(3) The determination of the Minister exercised pursuant hereto shall be final and conclusive.

**10.—**(1) The income, for any taxation period, of a beneficiary of any estate or trust of whatsoever nature shall be deemed to include all income accruing to the credit of the taxpayer whether received by him or not during such taxation period.

(2) Income accumulating in trust for the benefit of unascertained persons, or of persons with contingent interests, shall be taxable in the hands of the trustee or other like persons acting in a fiduciary capacity, as if such income were the income of an unmarried person.

**11.** Dividends or shareholders' bonuses shall be taxable income of the taxpayer in the year in which they are paid or distributed.

**12.** The share of a taxpayer in the undivided or undistributed gains and profits of a corporation shall not be deemed to be taxable income of the taxpayer, unless the Minister is of opinion that the accumulation of such undivided and undistributed gains and profits is made for the purpose of evading the tax, and is in excess of what is reasonably required for the purposes of the business.

**13.** Where a person owning shares of a corporation transfers such shares or a portion thereof to a second corporation acting as his agent, trustee or attorney, or promoted at his instance or controlled by him, which second corporation subsequently receives a dividend from the first mentioned corporation and applies the income thus received, in whole or in part, directly or indirectly—

- (a) in payment of the shares purchased by the second corporation from such person; or
- (b) in the discharge of any liability incurred to such person by reason of and in connection with the purchase of such shares; or
- (c) in the discharge of a loan obtained by the second corporation for the purpose of paying for such shares—

then such person shall be taxable in respect of such dividend as if he had received it in the year that the first-mentioned corporation declared the dividend.

**14.** When, as a result of the reorganization of a corporation or the readjustment of its capital stock, the whole or any part of its undistributed income is capitalized, the amount capitalized shall be deemed to be distributed as a dividend during the year in which the reorganization or readjustment takes place and the shareholders of the said corporation shall be deemed to receive such dividend in proportion to their interest in the capital stock of the corporation or in the class of capital stock affected.

**15.—(1)** Where a corporation having undistributed income on hand reduces or redeems any class of the capital stock or shares thereof, the amount received by any shareholder by virtue of the reduction shall, to the extent to which such shareholder would be entitled to participate in such undistributed income on a total distribution thereof at the time of such reduction, be deemed to be a dividend and to be income received by such shareholder.

(2) The provisions of this section shall not apply to any class of stock which, by the instrument authorizing the issue of such class, is not entitled on being reduced or redeemed to participate in the assets of the corporation beyond the amount paid up thereon plus any fixed premium and a defined rate of dividend nor to a reduction of capital effected before the first day of January, one thousand nine hundred and thirty-one.

**16.** Where a corporation, having undistributed income on hand, redeems its shares at a premium paid out of such income, the premium shall be deemed to be a dividend and to be income received by the shareholder.

**17.—(1)** For the purposes of this Act, any loan or advance by a corporation, or appropriation of its funds to a shareholder thereof, other than a loan or advance incidental to the business of the corporation shall be deemed to be a dividend to the extent that such corporation has on hand undistributed income and such dividend shall be deemed to be income received by such shareholder in the year in which made.

(2) This section shall not apply to a loan or advance made by a corporation lawfully empowered to make loans to its shareholders.

**18.—(1)** On the winding-up, discontinuance or reorganization of the business of any incorporated company, the distribution in any form of the property of the company shall be deemed to be the payment of a dividend to the extent that the company has on hand undistributed income earned in the taxation period 1931, and subsequent periods.

(2) Notwithstanding anything in the Act contained, where a dividend is deemed to be received under subsection (1) by a company incorporated or carrying on business in

Alberta, such dividend shall be taxable income of such incorporated company, and where such a dividend is paid to a company incorporated outside of Alberta, and not carrying on business in Alberta, the company which is being wound-up, discontinued or reorganized shall deduct from such dividend a tax at the rate in force for corporations in the year in which such dividend is paid and shall pay the same to the Provincial Treasurer.

**19.** The undistributed income of a corporation shall, for the purposes of sections 14, 15, 16, 17 and 18, be deemed to be reduced by the amount deemed to be received by the shareholders as a dividend by virtue of the provisions of the said sections 14, 15, 16 and 17.

**20.—(1)** The income of a personal corporation, in lieu of being assessed the tax prescribed by section 8 of this Act, shall on the last day of each year be deemed to be distributed as a dividend to the shareholders thereof and shall in their hands constitute taxable income for each year in the proportion hereinafter mentioned, whether actually distributed by way of dividend or not.

(2) Each shareholder's taxable portion of the income of the corporation, deemed to be distributed to him as above provided for, shall be such percentage of the income of the corporation as the value of all property transferred or loaned by such shareholder or his predecessor in title to the corporation is of the total value of all property of the corporation acquired from the shareholders.

(3) The value of the property transferred by such shareholder or his predecessor in title shall be the fair value as at the date of the transfer of such property to the corporation, and the total value of the property of the corporation acquired from its shareholders shall, for the purpose of determining the percentage referred to in the last preceding subsection, be taken as at the date of acquisition thereof by the corporation; and in ascertaining values under this subsection, regard shall be had to all the facts and circumstances, and the decision of the Minister in that respect shall be final and conclusive.

(4) Where one personal corporation is succeeded by, or transfers its property to, another personal corporation, the shareholders of the first corporation shall be deemed to have transferred to the second or succeeding corporation the property which they transferred to the corporation first mentioned and where any person acquires the control of a personal corporation he shall be deemed to have transferred to such corporation the property transferred thereto by his vendor.

(5) Where the fiscal period of the personal corporation does not coincide with the calendar year, the income shall be deemed to be distributed as a dividend on the last day of the fiscal period.

(6) Dividends actually declared by a personal corporation after the thirty-first day of December, one thousand nine hundred and thirty, shall be deemed to be paid out of income earned after said thirty-first day of December, one thousand nine hundred and thirty, so far as the same is available and to that extent shall not be liable to further taxation in the hands of the shareholders.

**21.—(1)** The shareholders of a family corporation may elect any time within thirty days after the date on which returns of income by corporations are to be made that in lieu of the corporation being assessed as a corporation the income of the corporation be dealt with under this Act as if such corporation were a partnership, and each shareholder resident in Alberta shall then be deemed to be a partner and shall be taxable in respect of the income of the corporation according to his interest as a shareholder:

Provided, however, that the corporation, notwithstanding any such election, shall continue to be liable in respect of the interest of any non-resident shareholder in the income of the corporation.

(2) In order that the provisions of this section shall be applicable to any corporation and the shareholders thereof, a notice in writing of the election of the shareholders to have the same applied shall be mailed to the Minister by registered post by the secretary or other duly authorized officer of the corporation and such notice shall have attached thereto a duly certified copy of a resolution of the shareholders electing that the provision apply.

(3) Dividends of a family corporation shall be subject to taxation only to the extent that the dividends are in excess of the amount of the income of the corporation which, following upon election, has been taxed under the provisions of this section.

(4) The decision of the Minister upon any question arising under this section, including any question as to the application of the term "family," shall be final and conclusive.

**22.** Where any corporation carrying on business in Alberta purchases any commodity from a parent, subsidiary, or associated corporation at a price in excess of the fair market price, or where it sells any commodity to such a corporation at a price less than the fair market price, the Minister may, for the purpose of determining the income of such corporation, determine the fair price at which such purchase or sale shall be taken into the accounts of such corporation.

**23.** The income liable to taxation under this Act, of every person residing outside of Alberta, who is carrying on business in Alberta, either directly or through or in the name of any other person, shall be the net profit or gain arising from the business of such person in Alberta.

**24.** The income liable to taxation under this Act of every person residing outside of Alberta, who derives income for services rendered in Alberta, otherwise than in the course of regular or continuous employment, for any person resident or carrying on business in Alberta, shall be the income so earned by such person in Alberta.

**25.** The income liable to taxation under this Act of every person residing outside of Alberta who renders services in Alberta as a director, officer or employee of any company carrying on business in Alberta, the majority of the voting shares of which are owned or controlled by any such person, or any combination of them, or any trustee acting on his or their behalf, shall include dividends and interest received, by him or them or his or their trustee, from the company with which he is so associated or any subsidiary thereof and shall be taxable against such person.

**26.—(1)** Where a non-resident person produces, grows, mines, creates, manufactures, fabricates, improves, packs, preserves or constructs, in whole or in part, anything within Alberta and exports the same without sale prior to the export thereof, he shall be deemed to be carrying on business in Alberta and to earn within Alberta a proportionate part of any profit ultimately derived from the sale thereof outside of Alberta.

(2) The Minister shall have full discretion as to the manner of determining such proportionate part.

**27.—(1)** Any non-resident person soliciting orders or offering anything for sale in Alberta through an agent or employee, and whether any contract or transaction which may result therefrom is completed within Alberta or without Alberta, or partly within and partly without Alberta, or any non-resident person who lets or leases anything used in Alberta, or who receives a royalty or other similar payment for anything used or sold in Alberta, shall be deemed to be carrying on business in Alberta and to earn a proportionate part of the income derived therefrom in Alberta.

(2) The Minister shall have full discretion as to the manner of determining such proportionate part.

**28.** Nothing in the two last preceding sections shall in any way affect the generality of the term "carrying on business" as used elsewhere in this Act.

**29.** Where two or more persons are carrying on business in partnership, the partnership as such shall not be liable to taxation but the shares of the partners in the income of the partnership, whether withdrawn or not during the taxation year shall, in addition to all other income, be income of the partners and taxed accordingly.

**30.**—(1) Where a husband and wife are partners in any business, the total income from the business may in the discretion of the Minister be treated as income of the husband or the wife and taxed accordingly.

(2) Where a husband derives income as an employee of his wife, or *vice versa*, any remuneration paid to the husband or wife shall not be chargeable as an expense of the business in determining the net profit thereof.

(3) Where the husband or wife of a partner in any business receives any salary or any other remuneration therefrom, the portion of the remuneration paid that bears a similar proportion to the interest of the wife or husband, as the case may be, in the partnership business shall be added to the income of the said wife or husband and taxed accordingly.

**31.**—(1) Where a person transfers property to his children such person shall nevertheless be liable to be taxed on the income derived from such property or from property substituted therefor as if such transfer had not been made, unless the Minister is satisfied that such transfer was not made for the purpose of evading the taxes imposed under this Act.

(2) Where a husband transfers property to his wife, or *vice versa*, the husband or the wife, as the case may be, shall nevertheless be liable to be taxed on the income derived from such property or from property substituted therefor as if such transfer had not been made.

**32.**—(1) Every person liable to taxation under this Act shall, on or before the 31st day of May, 1932, and upon the 31st day of March in each year thereafter, without any notice or demand, and any person whether liable to taxation hereunder or not, upon receipt of a notice or demand in writing from the Superintendent of Income Tax or any officer authorized by him to make such demand, deliver to the Minister a return in such form as the Minister may prescribe of his total income during the last preceding year.

(2) In such return the taxpayer shall state an address in Alberta to which all notices and other documents to be mailed or served under this Act may be mailed or served.

**33.** A member of a partnership or the proprietor of a business whose fiscal period or periods is other than the calendar year shall make a return of his income and have the tax payable computed upon the income from the business for the fiscal period or periods ending within the calendar year for which the return is being made, but his return of income derived from sources other than his business shall be made for the calendar year.

**34.**—(1) The return in the case of a corporation association or other body, shall be made and signed by the president, secretary, treasurer or chief agent having a personal

knowledge of the affairs of such corporation, association or other body, or, in any case, by such other person or persons employed in the business liable, or believed to be liable, to taxation, as the Minister may require.

(2) Any corporation or joint stock company the fiscal period of which is not the calendar year, shall make a return and have the tax payable by it computed upon its income for its fiscal period or periods ending within the calendar year for which the return is being made.

**35.**—(1) If a person is unable for any reason to make the return hereinbefore required, such return shall be made by the guardian, curator, tutor or other legal representative of such person, or if there is no such legal representative, by someone acting as agent for such person.

(2) In the case of the estate of any deceased person, the return shall be made by the executor, administrator or heir of such deceased person.

(3) If there is no person to make a return under the provisions of this section, the return shall be made by such person as may be required by the Minister to make such return.

**36.** Every trustee in bankruptcy, assignee, liquidator, curator, receiver, administrator, heir, executor and such other like person or legal representative administering, managing, winding-up, controlling, or otherwise dealing with the property, business, or estate of any person who has not made a return for any taxable period or for any portion of a taxable period for which such person was required to make a return in accordance with the provisions of this Act shall make such return.

**37.** Every agent, trustee, or person who collects or receives, or is in any way in possession or control of income for or on behalf of a person who is resident outside of Alberta shall make a return of such income.

**38.**—(1) All employers shall make a return of all persons in their employ receiving any salary or other remuneration in excess of such an amount as the Minister may prescribe.

(2) All corporations and associations shall make a return of all dividends and bonuses paid to shareholders and members.

(3) All persons, in whatever capacity acting, having the control, receipt, disposal or payment of fixed or determinable annual or periodical gains, profits or income of any taxpayer, shall make and render a separate and distinct return to the Minister of such gains, profits or income, containing the name and address of each taxpayer.

(4) Such returns shall be delivered to the Minister on or before the thirty-first day of March in each year without any notice or demand being made therefor, and in such form as the Minister may prescribe.

(5) All persons, in whatever capacity acting, making payment of interest, royalties, rents, annuities, compensation, remuneration or other fixed or determinable amounts, such as interest upon bonds, mortgages, deeds of trust or other similar obligations, and also payments under contracts, whether written or verbal, relating to the buying and selling and otherwise dealing in stocks, bonds, debentures, mortgages, hypothecs, and other similar securities, shall, without any notice or demand being made therefor, render on such forms and at such times as the Minister may prescribe, a true and accurate return of the amounts paid in excess of such sums as the Minister decides, together with the names and addresses of the recipients; and for the purposes of this subsection, payment shall include amounts credited to the creditor during the fiscal period of the debtor.

**39.** The Minister may at any time enlarge the time for making any return.

**40.—(1)** If the Minister, in order to enable him to make an assessment or for any other purpose, desires any information or additional information or a return from any person who has not made a return, or a complete return, he may by registered letter demand from such person such information, additional information or return.

(2) Such person shall deliver to the Minister such information, additional information or return within thirty days from the date of mailing of such registered letter.

(3) For the purpose of any proceedings taken under this Act, the facts necessary to establish compliance on the part of the Minister with the provisions of this section, as well as default hereunder, shall be sufficiently proved in any court of law by the affidavit of the Superintendent of Income Tax or any other responsible officer of the Department of The Provincial Treasurer.

(4) Such affidavit shall have attached thereto as an exhibit a copy or duplicate of the said letter.

**41.** The Minister may require the production, or the production on oath, by the taxpayer or by his agent or officer, or by any person or partnership holding, or paying, or liable to pay, any portion of the income of any taxpayer, of any letters, accounts, invoices, statements and other documents.

**42.** The Minister may require and demand the production, or the production on oath, by any person, or by his agent, or officer, of any letters, accounts, invoices, statements financial or otherwise, books or other documents, held by such person, agent or officer, for the purpose of arriving



at the tax believed to be payable by any other person, and the same shall be produced within thirty days from the date of mailing of such demand.

**43.** Every person who, in whatever capacity acting, is in receipt of any money, thing of value, or of profits, or gains arising from any source, of or belonging to any other person shall, when required to do so by notice from the Minister, prepare and deliver to the Minister any information required within thirty days from the date of the mailing of such notice.

**44.** Any officer authorized thereto by the Minister may make such inquiry as he may deem necessary for ascertaining the income of any taxpayer, and for the purposes of such inquiry such officer shall have all the powers and authority which may be conferred upon a commissioner appointed under *The Public Inquiries Act*.

**45.** If a taxpayer fails or refuses to keep adequate books or accounts for income tax purposes, the Minister may require the taxpayer to keep such records and accounts as he may prescribe.

**46.** The Minister shall not be bound by any return or information supplied by or on behalf of a taxpayer, and notwithstanding such return or information, or if no return has been made, the Minister may determine the amount of the tax to be paid by any person.

**47.** Every person liable to pay any tax under this Act shall send with the return of the income upon which such tax is assessable, the tax of three dollars and not less than one-quarter of the amount of such tax, and may pay the balance, if any, of such tax, in not more than three equal bi-monthly instalments thereafter, together with interest at the rate of six per centum per annum upon each instalment from the last day prescribed for making such return to the time payment is made.

**48.** If any person liable to pay any tax under this Act pays as any instalment less than one-quarter of the tax as estimated by him, together with the tax of three dollars, or should he fail to make any payment at the time of filing his return or at the time when any instalment should be paid, he shall pay, in addition to the interest at the rate of six per centum per annum provided for by the last preceding section, additional interest at the rate of four per centum per annum upon the deficiency from the date of default to the date of payment.

**49.** Every person who is required by section 36 of this Act to make a return of income shall pay any tax and interest and penalties assessed and levied with respect to such

income before making any distribution of the property, business or estate which he is administering, managing, winding-up or otherwise controlling or dealing with.

**50.**—(1) Every trustee in bankruptcy, assignee, administrator, executor and other like person, before distributing any assets under his control, shall obtain a certificate from the Minister certifying that no unpaid assessment of income tax, interest and penalties properly chargeable against the person, property, business or estate, as the case may be, remains outstanding.

(2) Distribution without such certificate shall render the trustee in bankruptcy, assignee, administrator, executor and other like person personally liable for the tax, interest and penalties.

**51.** In case of default by any person who is resident outside of Alberta in the payment of any tax payable, the agent, trustee or other person who is required by section 37 of this Act to make a return of the income of such non-resident shall, on being so notified by the Minister, deduct the amount of such tax from the income or assets of such non-resident in his hands and pay the same to the Minister.

**52.**—(1) The returns received by the Minister shall with all due despatch be checked and examined.

(2) In all cases where such examination discloses that an overpayment has been made by a taxpayer, the Minister shall make a refund of the amount so overpaid by such taxpayer, except in cases where any instalment or instalments are either due or falling due by such taxpayer, when the amount of the overpayment shall be applied on such instalment or instalments, and notice of such action shall be given such taxpayer, accompanied by the payment of the balance, if any, of the amount overpaid.

**53.**—(1) After examination of the taxpayer's return the Minister shall send a notice of assessment to the taxpayer verifying or altering the amount of the tax as estimated by him in his return.

(2) Any additional tax found due over the estimated amount shall be paid within one month from the date of the mailing of the notice of assessment.

(3) If the taxpayer fails to pay such additional tax within one month from the date of the mailing of the notice of assessment aforesaid, he shall pay, in addition to the interest provided for by section 47, interest at the rate of four per centum per annum, upon the said additional tax, from the expiry of the period of one month from the date of the mailing of the said notice to the date of payment.

**54.** Any person liable to pay the tax shall continue to be liable, and in case any person so liable shall fail to make a return as required by this Act, or shall make an incorrect or false return, and does not pay the tax in whole or in part, the Minister may at any time assess such person for the tax, or such portion thereof as he may be liable to pay, and may prescribe the time within which any appeals may be made under the provisions of this Act from the assessment and may fix the date of payment of the tax.

**55.** The Minister may, at or prior to the issue of the notice of assessment, refund without application therefor, any overpayment made by the taxpayer, or after the issue of the notice of assessment, provided application in writing is made therefor by the taxpayer within twelve months from the date of payment of the tax or the date at which the notice of assessment was issued.

**56.—(1)** Any person who objects to the amount at which he is assessed, or who considers that he is not liable to taxation under this Act, may personally or by his solicitor, within one month after the date of mailing of the notice of assessment provided for in section 53 of this Act, serve a notice of appeal upon the Minister.

(2) Such notice of appeal shall be in writing and shall be served by mailing the same by registered post addressed to the Minister.

(3) Every such notice shall, as closely as may be, follow the form contained in the second schedule of this Act and shall set out clearly the reasons for appeal and all facts relative thereto.

**57.** Upon receipt of the said notice of appeal the Minister shall duly consider the same and shall affirm or amend the assessment appealed against and shall notify the appellant of his decision by registered post.

**58.—(1)** If the appellant, after receipt of the said decision, is dissatisfied therewith, he may, within one month from the date of the mailing of the said decision, mail to the Minister by registered post, a notice entitled:

#### THE INCOME TAX ACT

#### NOTICE OF DISSATISFACTION

In re the appeal of.....of the.....  
of.....in the Province of.....  
stating that he desires his appeal to be set down for trial.

(2) The appellant shall forward therewith a final statement of such further facts, statutory provisions, and reasons which he intends to submit to the Court in support of the appeal as were not included in the aforesaid notice of appeal,

or in the alternative, a recapitulation of all facts, statutory provisions and reasons included in the aforesaid notice of appeal, together with such further facts, provisions and reasons as the appellant intends to submit to the court in support of the appeal.

**59.**—(1) The party appealing shall thereupon give security for the costs of the appeal to the satisfaction of the Minister in a sum not less than fifty dollars.

(2) Unless such security is furnished by the party appealing within one month after the mailing of the notice of dissatisfaction the appeal and all proceedings thereunder shall become null and void.

**60.** Upon receipt of the said notice of dissatisfaction and statement of facts, the Minister shall reply thereto by registered post, admitting or denying the facts alleged and confirming or amending the assessment or any amended, additional or subsequent assessment.

**61.**—(1) Within two months from the date of mailing of the said reply, the Minister shall cause to be transmitted to the registrar of the Supreme Court of Alberta at Edmonton, to be filed in the said Court, typewritten copies of the following documents:

- (a) The Income Tax Return of the appellant, if any, for the period under review;
- (b) The Notice of Assessment appealed;
- (c) The Notice of Appeal;
- (d) The Decision of the Minister;
- (e) The Notice of Dissatisfaction;
- (f) The Reply of the Minister; and
- (g) All other documents and papers relative to the assessment under appeal.

(2) The matter shall thereupon be deemed to be an action in the said Court ready for trial or hearing:

Provided, however, that should it be deemed advisable by the Court or a judge thereof that pleadings be filed, an order may issue directing the parties to file pleadings.

**62.** All subsequent proceedings shall be entitled:

In re *The Income Tax Act*, and the appeal of .....  
 ..... of .....  
 in the Province of .....  
 and notice and copies of all further proceedings shall be served upon the Superintendent of Income Tax personally or upon some other responsible officer of the Treasury Department.

**63.**—(1) After an appeal has been set down for trial or hearing as above provided, any fact or statutory provision

not set out in the said notice of appeal or notice of dissatisfaction may be pleaded or referred to in such manner and upon such terms as the Court or a judge thereof may direct.

(2) The Court may refer the matter back to the Minister for further consideration.

**64.** Subject to the provisions of this Act, the Supreme Court of Alberta shall have exclusive jurisdiction to hear and determine all questions that may arise in connection with any assessment made under this Act and in delivering judgment may make any order as to payment of any tax, interest or penalty or as to costs as to the said Court may seem right and proper.

**65.** An assessment shall not be varied or disallowed because of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision up to the date of the issuing of the notice of assessment.

**66.** Proceedings before the Supreme Court of Alberta hereunder shall be held *in camera* upon request made to the Court by any party to the proceedings.

**67.** If a notice of appeal is not served or a notice of dissatisfaction is not mailed within the time limited therefor, the right of the person assessed to appeal shall cease and the assessment shall be valid and binding notwithstanding any error, defect or omission therein or in any proceedings required by this Act.

**68.** All taxes, interest, penalties and costs assessed or imposed or ordered to be paid under the provisions of this Act, shall be deemed to be a debt due to His Majesty and shall be recoverable as such in the Supreme Court of Alberta or in any other court of competent jurisdiction, in the name of His Majesty or in such other manner as is in this Act provided.

**69.—(1)** All taxes, interest and penalties payable under this Act remaining unpaid, whether in whole or in part after two months from the date of mailing of the notice of assessment, may be certified by the Superintendent of Income Tax.

(2) On the production to the Supreme Court of Alberta, the certificate shall be registered in the said Court and shall, from the date of such registration, be of the same force and effect, and all proceedings may be taken thereon, as if the certificate were a judgment obtained in the said Court for the recovery of a debt of the amount specified in the certificate, including interest to date of payment as provided for in this Act and entered upon the date of such registration.

(3) All reasonable costs and charges attendant upon the registration of such certificate shall be recoverable in like manner as if they were part of such judgment.

**70.**—(1) When the Minister has knowledge or suspects that any person is or is about to become indebted to a taxpayer, he may, by registered letter, demand of such person that the moneys otherwise payable to the taxpayer be in whole or in part, paid over to the Provincial Treasurer of Alberta on account of said taxpayer's liability under the provisions of this Act.

(2) The receipt of the Minister therefor shall constitute a good and sufficient discharge of the liability of such person to said taxpayer to the extent of the amount referred to in the receipt.

(3) Any person discharging any liability to a taxpayer after receipt of the registered letter herein referred to shall be personally liable to the Provincial Treasurer of Alberta to the extent of the liability discharged as between him and the taxpayer or to the extent of the liability of the taxpayer for taxes, interest and penalties, whichever is the lesser amount.

**71.**—(1) If any person not having given notice of appeal neglects or refuses to pay any tax, interest or penalty, or instalment of tax due under this Act, the Minister, on giving ten days' notice by registered mail addressed to the last known place of residence of the taxpayer, may issue a certificate declaring said person to be in default and may authorize any person whom he deems proper upon receipt of such certificate to distrain the goods and chattels of the person so in default.

(2) The distress levied in accordance with this section shall be kept for ten days at the cost and charges of the person neglecting or refusing to pay and if the person aforesaid does not pay the sum due, together with the costs and charges within the said ten days the goods and chattels distrained shall be sold by public auction.

(3) Except in the case of perishable goods, notice of such sale setting forth the time and place thereof, together with a general description of the goods to be sold, shall be published at least once in one or more of the local newspapers of general local circulation.

(4) Any surplus resulting from the distress after deduction of the amount owing by the taxpayer and all costs and charges shall be restored to the owner of the goods distrained.

(5) Such goods and chattels of any person in default as would be exempt from seizure under a writ of execution shall be exempt from distress under this section.

**72.**—(1) The Minister, if he suspects that the taxpayer is about to leave Alberta, may, for that or any other reason, by registered letter addressed to the taxpayer, demand payment of all taxes, penalties and accrued interest for which the taxpayer is liable, and the same shall be paid within ten days from the date of mailing of such registered letter, notwithstanding any other provisions in this Act contained.

(2) Non-payment of the said tax within the specified time shall render the goods of the taxpayer liable to seizure by the sheriff of the judicial district in which the goods of the taxpayer are situate.

(3) A certificate of non-compliance with any such demand, signed by the Superintendent of Income Tax, setting forth the particulars of the demand and placed in the hands of the sheriff, shall be sufficient authority to him to seize sufficient of the goods of the taxpayer to meet the said demand.

(4) The sale of such goods and the disposition of the moneys realized shall be conducted in the same manner as if the seizure were made under a writ of execution.

**73.**—(1) The Minister shall have the administration of this Act and the control and management of the collection of the taxes imposed hereby, and of all matters incident thereto, and of the officers and persons employed in that service.

(2) The Minister may make any regulations deemed necessary for carrying this Act into effect, and may thereby authorize the Superintendent of Income Tax to exercise such of the powers conferred by this Act upon the Minister as may, in the opinion of the Minister, be conveniently exercised by the Superintendent of Income Tax.

**74.**—(1) The Lieutenant Governor in Council may, from time to time, appoint officers and other persons to carry out this Act.

(2) The Lieutenant Governor in Council may assign the names of office of such officers and other persons, and prescribe such salaries or pay for their services and responsibilities as he deems necessary and reasonable, and may appoint the times and manner in which the same shall be paid.

**75.**—(1) Every person failing to deliver a return pursuant to the provisions of section 32 hereof within the time limited therefor shall be liable to a penalty of five per centum of the tax payable by such person:

Provided, however, that such penalty shall not in any case exceed five hundred dollars.

(2) Every person failing to deliver a return pursuant to the provisions of sections 34 to 38, inclusive, within the time

limited therefor, shall be liable to a penalty of ten dollars for each day of default:

Provided, however, that such penalty shall not in any case exceed fifty dollars.

(3) In the case of a return by an employer required by this Act, the penalty shall be further limited to an amount equal to ten per centum of the aggregate amount of the tax payable by the employees who should be reported on such return:

Provided, however, that the penalty shall not be less than two dollars.

**76.** In the case of religious, charitable, agricultural and educational institutions and boards of trade and chambers of commerce, default shall not be deemed to have commenced until the expiry of thirty days from the date of the mailing of a demand for a return by the Minister.

**77.** For every default in complying with the provisions of sections 40 to 45, inclusive, the persons in default shall each be liable on summary conviction, to a penalty of not less than twenty-five dollars for each day during which the default continues.

**78.—(1)** Any person making a false statement in any return or in any information required by the Minister, shall be liable on summary conviction to a penalty not exceeding ten thousand dollars or to six months' imprisonment, or to both fine and imprisonment.

(2) Any information or complaint with respect to any offence against the provisions of this section, whenever the prosecution, suit or proceeding is instituted under the provisions of the Criminal Code relating to summary convictions, may be laid or made within three years from the time when the matter of the information or complaint arose.

**79.—(1)** No person employed in the service of His Majesty shall communicate or allow to be communicated to any person not legally entitled thereto, any information obtained under the provisions of this Act, or allow any such person to inspect or have access to any written statement furnished under the provisions of this Act.

(2) Any person violating any of the provisions of this section shall be liable on summary conviction to a penalty not exceeding two hundred dollars.

**80.** Any information or complaint under this Act may be laid or made by any person authorized thereunto by the Minister.

**81.** This Act shall come into force on the day upon which it is assented to.



## FIRST SCHEDULE.

RATES OF TAX APPLICABLE TO PERSONS OTHER THAN  
CORPORATIONS AND JOINT STOCK COMPANIES.

On the excess of income over the amount exempt from taxation up to \$2,000—1% ;

On the excess of income over the amount exempt, over \$2,000 and up to \$4,000—2% ;

On the excess of income over the amount exempt, over \$4,000 and up to \$5,000—3% ;

On the excess of income over the amount exempt, over \$5,000 and up to \$6,000—4% ;

On the excess of income over the amount exempt, over \$6,000 and up to \$7,000—5% ;

On the excess of income over the amount exempt, over \$7,000 and up to \$8,000—6% ;

On the excess of income over the amount exempt, over \$8,000 and up to \$9,000—7% ;

On the excess of income over the amount exempt, over \$9,000 and up to \$10,000—8% ;

On the excess of income over the amount exempt, over \$10,000 and up to \$11,000—9% ;

On the excess of income over the amount exempt, over \$11,000 and up to \$12,000—10% ;

On the excess of income over the amount exempt, over \$12,000 and up to \$13,000—11% ;

On the excess of income over the amount exempt, over \$13,000 and up to \$14,000—12% ;

On the excess of income over the amount exempt, over \$14,000 and up to \$15,000—13% ;

On the excess of income over the amount exempt, over \$15,000 and up to \$16,000—14% ;

On the excess of income over the amount exempt, over \$16,000 and up to \$17,000—15% ;

On the excess of income over the amount exempt, over \$17,000 and up to \$18,000—16% ;

On the excess of income over the amount exempt, over \$18,000 and up to \$19,000—17% ;

On the excess of income over the amount exempt, over \$19,000 and up to \$20,000—18% ;

On the excess of income over the amount exempt, over \$20,000 and up to \$21,000—19% ;

On the excess of income over the amount exempt, over \$21,000 and up to \$22,000—20% ;

On the excess of income over the amount exempt, over \$22,000 and up to \$23,000—21% ;

On the excess of income over the amount exempt, over \$23,000 and up to \$24,000—22% ;

On the excess of income over the amount exempt, over \$24,000 and up to \$25,000—23%;

On the excess of income over the amount exempt, over \$25,000 and up to \$26,000—24%;

On the excess of income over the amount exempt, over \$26,000 and up to \$27,000—25%;

On all the excess of income over the amount exempt, over \$27,000—25%.

## RATE OF TAX APPLICABLE TO CORPORATIONS AND JOINT STOCK COMPANIES

On the amount in excess of \$1,000—4%.

## SECOND SCHEDULE

In re *The Income Tax Act*, and.....  
 (Name of Taxpayer)  
 of the..... of.....  
 (Address)  
 Province of.....

*Appellant.*

Notice of Appeal is hereby given from the assessment bearing date the.....day of....., 19..., wherein a tax in the sum of \$.....levied in respect of income for the taxation year 19....

*(Insert in blank space full statement of facts)*

*(Insert in blank space statement of reasons for appeal)*

Dated this.....day of....., 19....

(Signature)

SECOND SESSION  
SEVENTH LEGISLATURE  
22 GEORGE V  
1932

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**BILL**

An Act to authorize the Levying of a  
Tax upon Incomes

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. BROWNLEE

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EDMONTON:  
W. D. MCLEAN, KING'S PRINTER  
1932