

# BILL

No. 69 of 1938.

An Act to amend The Income Tax Act.

(Assented to \_\_\_\_\_, 1938.)

**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 Amendment Act, 1938.*"

**2.** *The Income Tax Act*, being chapter 5 of the Statutes of Alberta, 1932, is hereby amended as to section 5 thereof,—

- (a) by striking out paragraphs (a) and (b) of subsection (1);
- (b) by striking out paragraph (d) of subsection (1) and by substituting therefor the following:  
“(d) Seven hundred and fifty dollars in the case of all other persons except corporations.”

**3.** The said Act is further amended as to section 6 by adding at the end thereof the follownig new paragraphs:

- “(h) depreciation of vehicles, machinery, plant or buildings used in the production of the income, except such amount as the Minister may in his discretion allow, but no such allowance shall be made for any year if that allowance, when added to any allowances made to any taxpayer in respect thereof for any previous years, will make the aggregate amount of the allowances exceed the total value of the asset as determined by the Minister;
- “(i) depletion or exhaustion of mines, oil or gas wells or timber limits, except such amount as the Minister may in his discretion allow, but no such allowance shall be made for any year if that allowance, when added to any allowance made to any taxpayer in respect thereof for any previous years, will make the aggregate amount of the allowances exceed the total value of the asset as determined by the Minister; and in the case of leases of mines, oil or gas wells or timber limits, the lessor and the lessee shall be entitled to deduct such part of any allowance for depletion or exhaustion as they may agree upon and, if they do not agree, the Minister may appor-

tion the allowance between them, and any apportionment so made shall be binding and conclusive upon them, and each of them shall be entitled to exemption in respect of the amount of the allowance so apportioned to him;

- “(j) interest on borrowed capital used in the business to earn the income, except such amount as the Minister in his discretion may allow notwithstanding the amount of interest payable by the taxpayer, provided that no deduction shall be allowed in respect of interest on moneys borrowed from without the Province, either by way of loan, advance, or through a bond or debenture issue, unless a separate return is made covering the aggregate amount of such interest, and income tax is paid on that amount at the rates applicable to corporations and joint stock companies, set forth in the first Schedule of this Act, except that the maximum rate shall not exceed five per centum.
- “(k) subject to the provisions of the rule for the determination of the rate and amount of tax in certain cases set out in the Schedule, the income of a taxpayer other than a corporation or joint stock company derived from dividends of a corporation or joint stock company other than a personal corporation, where the corporation or company was incorporated in Canada and has its head office in Alberta and has been taxed in respect of its income under this Act.”

4. The said Act is further amended as to section 8,—

- (a) by striking out the word “rate” where the same occurs in subsection (2) and by substituting therefor the word “rates”; and
- (b) by striking out subsection (3) and by substituting therefor the following:

“(3) Where the tax imposed upon a corporation or joint stock company by this Act exceeds the tax imposed upon the same corporation or joint stock company under sections 4 to 17, both inclusive, of *The Corporations Taxation Act*, the amount of the tax payable by the company under this Act shall be reduced by the amount of the tax payable by it under *The Corporations Taxation Act*.”

5. The said Act is further amended as to section 20 by striking out the word “rate” where the same occurs in subsection (9) and by substituting therefor the word “rates”.

6. The said Act is further amended as to section 32 by striking out the words “and upon the thirty-first day of March in each year thereafter” where the same occur in subsection (1) and by substituting therefor the words “and on or before the thirty-first day of March in each year thereafter”.

**7.** The said Act is further amended as to section 38 by adding at the end of subsection (1) the following new subsection:

“(1*a*) In the event of the change of ownership, discontinuance, bankruptcy, winding-up or liquidation of the business of an employer, a return as required in subsection (1) for the current year up to the occurrence of that event shall be made forthwith by the employer or his trustee as the case may be.”

**8.** The said Act is further amended as to section 47 by striking out the words “six per centum” where the same occur therein and substituting therefor the words “five per centum”.

**9.** The said Act is further amended as to section 48 by striking out the same and by substituting therefor the following:

“**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, 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 five per centum per annum provided for by the last preceding section, additional interest at the rate of three per centum per annum upon the deficiency from the date of default to the date of payment.”

**10.** The said Act is further amended as to section 53,—

- (a) by striking out the words “six per centum” where the same occur in subsection (2) thereof and by substituting therefor the words “five per centum”;
- (b) by striking out the words “four per centum” where the same occur in subsection (3) thereof and by substituting therefor the words “three per centum”.

**11.** The said Act is further amended as to section 54 by striking out the same and by substituting therefor the following:

“**54.** Notwithstanding any prior assessments, or if no assessment has been made, the taxpayer shall continue to be liable for any tax and to be assessed therefor and the Minister may at any time assess, reassess or make additional assessments upon any person for tax, interest and penalties, and the provisions of this Act relating to time of payment of the tax, interest and appeal from assessment shall apply *mutatis mutandis* to any such assessment.”

**12.** The said Act is further amended as to section 69 by striking out the same and by substituting therefor the following:

“**69.**—(1) Where default is made in the payment of all or any part of any tax which is due and payable under this

Act, the Superintendent may issue his certificate stating the amount of tax assessed, the amount thereof remaining unpaid (including interest and penalties), and the name of the person by whom it is payable, and may file the certificate with the Clerk or Deputy Clerk of the Supreme Court of Alberta or of the District Court of the Judicial District in which the said person dwells or carries on his business at the time of the said filing, and when so filed the certificate shall be of the same force and effect and all proceedings may be taken thereon, as if it were a judgment of the said Court for the recovery of a debt of the amount stated in the certificate including interest to date of payment as provided in this Act, against the person named therein.

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

**13.** The said Act is further amended as to section 75 thereof,—

- (a) by striking out the word and figures “section 32” where the same occur in subsection (1) and by substituting therefor the words and figures “sections 32 and 34”;
- (b) by striking out the words and figures “sections 34 to 38” where the same occur in subsection (2) and by substituting therefor the words and figures “sections 35 to 38”.

**14.** The said Act is further amended by inserting therein immediately after section 78a the following new section:

“**78b.** No covenant, agreement, stipulation, or provision in any contract whensoever made and whether made before or after the coming into force of this Act, whereby in the year 1938 any sum payable under any such contract is increased, or any additional sum is made payable in the event of any tax payable pursuant to this Act being increased by reason of any amendment to this Act, shall be enforceable in any Court in the Province in respect of the amount by which any sum payable under such contract is increased in the year 1938 or in respect of any additional sum payable in the year 1938 pursuant thereto.

**15.** The said Act is further amended as to the First Schedule thereof by striking out the words and figures “RATE OF TAX APPLICABLE TO CORPORATIONS AND JOINT STOCK COMPANIES. On the income of the company, 5%.” where the same occur at the end thereof and by substituting therefor the following:

“**RULE FOR THE DETERMINATION OF RATE AND AMOUNT OF TAX IN CERTAIN CASES.**

“In the case of a person in receipt of an income of the kind mentioned in paragraph (k) of section 6, the rates of tax applicable to such person shall be determined before

any allowance is made for the exemption mentioned in the said paragraph and the amount of the tax payable by such person in respect of his income subject to taxation, shall be computed by determining an amount equal to the tax which would have been payable if no part of his income came within the said paragraph and deducting from such amount an amount equal to the tax which would have been payable upon the income within the said paragraph as if it were not so exempt and as if such income were the only taxable income of such person.

**“THE RATES OF TAX APPLICABLE TO CORPORATIONS AND  
JOINT STOCK COMPANIES.**

“On the first \$2,000 or any portion thereof, 3 per centum;

“On the amount in excess of \$2,000 but not in excess of \$3,000, 4 per centum;

“On the amount in excess of \$3,000 but not in excess of \$4,000, 5 per centum;

“On the amount in excess of \$4,000 but not in excess of \$5,000, 6 per centum;

“On the amount in excess of \$5,000 but not in excess of \$6,000, 7 per centum;

“On the amount in excess of \$6,000 but not in excess of \$7,000, 9 per centum;

“On the amount in excess of \$7,000 but not in excess of \$8,000, 10 per centum;

“On the amount in excess of \$8,000 but not in excess of \$9,000, 11 per centum;

“On the amount in excess of \$9,000 but not in excess of \$10,000, 12 per centum;

“Where the net income exceeds \$10,000, the rate shall be 7 per centum on all the net income.”

**16.** This Act shall come into force on the day upon which it is assented to and upon so coming into force the amendments made by paragraph (a) of section 2, by sections 3, 4 and 15, shall be retroactive so as to apply to all income for the year 1937; and the amendment made by paragraph (b) of section 2 shall be deemed to have been in force at all times from and after the sixth day of April, 1932.

SIXTH SESSION  
EIGHTH LEGISLATURE

1 GEORGE VI

1938

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**BILL**

An Act to amend The Income Tax  
Act

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. LOW.

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EDMONTON:  
A. Shnitka, King's Printer  
1938