

Bill No. 84 of 1938.

A BILL TO IMPOSE A TAX ON CERTAIN SECURITIES  
IN THE YEAR 1938.

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NOTE.

This Bill imposes a tax of two per cent on the amount owing on account of the principal sum advanced under any first, second or third mortgage of land in the Province as at the first day of April, 1938.

In case the person entitled to receive such principal who is a natural person who is not liable for the payment of income tax in the year 1938 in respect of his income for the year 1937, such person is exempted from the tax under this Bill.

In case the amount of the tax payable by a natural person under this Bill is more than one-fifth of the taxable income of such person for the year 1937, the Minister may remit either wholly or partially the tax payable by such person under this Bill.

Claims for exemption or remission are to be made by application in writing to the Minister accompanied by a return of income for 1937 not later than the first of May, 1938.

Every person entitled to receive any principal under any security is required to make a return to the Minister setting out therein particulars as prescribed by section 4 not later than the first of June, 1938.

The tax is to be paid not later than the first of June, 1938, and a penalty of five per cent per month is prescribed in case payment is not made upon the last mentioned date.

A penalty is prescribed for default in making the required returns of ten dollars a day for each day during which the default continues.

Provision is made for the issuance of a certificate by the Minister as to the tax payable in respect of any security and such certificate is given an evidential value.

No security is enforceable in any court and no discharge of any security may be registered in any Land Titles Office, unless it is established by the production of such a certificate

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that the tax payable in respect of the security has been paid, or that no tax is payable, as the case may be.

No person liable to pay the tax payable under this Bill is entitled to recover the same from any other person, notwithstanding any contract, agreement, covenant or stipulation, whether made before or after the coming into force of this Act.

R. ANDREW SMITH,  
*Legislative Counsel.*

*(This note does not form any part of the Bill and is offered merely as a partial explanation of some of its provisions.)*

# BILL

No. 84 of 1938.

An Act to Impose a Tax on Certain Securities in the  
Year 1938.

(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 1938 Securities Tax Act.*"

**2.** In this Act, unless the context otherwise requires,—

- (a) "Land" means land situate in the Province;
- (b) "Minister" means the Provincial Treasurer;
- (c) "Principal" means the principal sum owing under any security but does not include any sums owing on account of interest which have for any reason been added to or included in the principal sum;
- (d) "Security" means any first mortgage on land, any second mortgage on land and any third mortgage on land.

**3.—**(1) In order to the raising of a revenue for Provincial purposes, subject to the proviso to this section, a tax hereinafter referred to as the Security Tax shall, subject to the other provisions of this section, be levied and paid to His Majesty in the year 1938 at the time and in the manner hereinafter prescribed, by the person entitled as at the first day of April, 1938, to the principal sum payable or to become payable by virtue of any security in respect of the interest in the land to which the security relates, at the rate of two per cent on the principal sum owing under and by virtue of any security as at the first day of March, 1938;

(2) The aforesaid tax shall not be payable by a natural person entitled to such principal sum as aforesaid and the security thereof if such person is not liable for the payment of income tax in the year 1938 in respect of that person's income for the year 1937.

(3) In case the amount of the tax payable by a natural person under this Act is more than twenty per cent of the amount of the taxable income of such person for the year 1937, the Minister may in his uncontrolled discretion remit the whole or any part of the tax payable by such person under this Act as the Minister may think just and proper in the circumstances.

(4) Any person who claims to be exempt from taxation pursuant to subsection (2) or the remission of taxation pursuant to subsection (3) shall make application in writing for such exemption or remission not later than the first day of May, 1938, and every such application shall be accompanied by a return as to the income of such person for the year 1937 as prescribed by *The Income Tax Act*.

(5) The Minister shall proceed to dispose of any application made pursuant to subsection (4) and shall cause notice to be sent by mail to the applicant informing him of the disposition made by the Minister of such application.

(6) The disposition made by the Minister of any application under subsection (5) shall be final and conclusive and there shall be no appeal therefrom.

4.—(1) Every person who is entitled as at the first day of April, 1938, to receive any money payable or to become payable under any security on account of principal shall, not later than the first day of June, 1938, deliver or cause to be delivered to the Minister, a statement as to such security signed by such person or by some other person authorized so to do on his behalf, setting out,—

- (a) a sufficient description of the security, the names of the parties thereto and the date thereof;
- (b) in case the security is registered under *The Land Titles Act*, the office in which the same is registered and the date of registration;
- (c) the legal description of the property to which the security relates;
- (d) the amount of the sum owing for principal in respect of the security as at the date of the execution thereof and the amount of all advances of principal made in respect of the security subsequently to the execution thereof and the date of the making of each such advance.
- (e) all payments on account of principal made in respect of the security at any time between the date of its execution and the first day of March, 1938;
- (f) the amount of the principal sum owing as at the first day of March, 1938; and
- (g) the names and post office addresses of the persons having any beneficial interest in the principal sum and of the persons who are liable for the payment thereof.

(2) In the case of securities which are not registered under the provisions of *The Land Titles Act*, the said statement shall be accompanied by a copy of the security.

5. The tax shall be paid without any demand being made therefor to the Minister on or before the first day of June, 1938, and if the tax is not so paid there shall be paid in addition to the tax a penalty calculated at the rate of five

per cent for every month or part of a month during which the tax remains unpaid after the first mentioned date.

**6.** Every person entitled as at the first day of April, 1938, to the principal sum payable or to become payable by virtue of any security, who makes default in complying with the provisions of section 4 shall be guilty of an offence and liable on summary conviction therefor to a fine of ten dollars a day for every day during which the default continues together with costs.

**7.—(1)** The Minister, upon being satisfied that the tax payable in respect of any security pursuant to this Act has been paid or that no tax is payable in respect of such security, as the case may be, shall issue or cause to be issued a certificate in such form and manner as he may prescribe under his official seal to the effect that the tax payable in respect of the security has been paid or that no tax is payable in respect of the security, as the case may be.

(2) Any certificate purporting to be issued in pursuance of this section and to be signed by or on behalf of the Minister upon which appears the seal of office of the Minister, shall be accepted in every Court of civil jurisdiction as *prima facie* evidence of its contents without any proof as to the signatures thereon or the authority of the person signing the same.

**8.** No security shall be enforceable in any court in the Province and no discharge of any security shall be registered under *The Land Titles Act*, nor shall any sum be recoverable under any security in any such court unless it is established by the production of a certificate issued pursuant to section 7 that the tax payable pursuant to this Act has been paid or that no such tax is payable in respect of the security, as the case may be.

**9.** All sums owing on account of the Securities Tax, including any penalties thereon, shall be recoverable by the Provincial Treasurer by suit in any court of competent civil jurisdiction as a debt due to the Crown.

**10.** Notwithstanding the provisions of any contract, agreement, covenant or stipulation, whether made before or after the coming into force of this Act, no person who is liable to pay the tax in respect of any security under this Act shall be entitled to recover the amount of the tax from any other person.

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

SIXTH SESSION  
EIGHTH LEGISLATURE  
1 GEORGE VI  
1938

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**BILL**  
An Act to Impose a Tax on Certain  
Securities in the Year 1938.

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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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A Shnitka, King's Printer  
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