

ALBERTA CORPORATE TAX ACT

Chapter A-15

(NOTE: The taxation years affected by a provision of this Act that is added, repealed or amended are included in the original amending Acts, which are referred to at the end of each section. Those Acts should be consulted to determine the effect of the provision for a particular taxation year.)

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

Interpretation

1(1) In this Act and in the application of the provisions of the federal Act and the regulations made under that Act that are by this Act made applicable, each of the provisions of Part XVII of the federal Act apply for the purposes of this Act, except as provided in this Act or the regulations.

(2) In this Act and in the application of the provisions of the federal Act and the regulations made under that Act that are by this Act made applicable for the purposes of this Act,

- (a) “Alberta allocation factor” means the Alberta allocation factor determined in accordance with Division 1 of Part 4;
- (a.1) “Alberta QET tax credit” means the tax credit calculated under section 26.92;
- (b) “amount taxable in Alberta” means the amount taxable determined in accordance with Part 4;
- (b.1) “balance-due day” of a corporation for a taxation year means the day on or before which the corporation is required under section 38 to pay the remainder of its tax payable under Part 5 for the year or would be so required if such a remainder were payable;
- (c) “court” means the Court of Queen’s Bench;
- (d) “federal Act” means the *Income Tax Act* (Canada) and includes any rules of application that are contained in any Act of the Parliament of Canada that amends the *Income Tax Act* (Canada);
- (d.1) “federal assessment action” means any of the following actions taken by the Minister of National Revenue under the federal Act:
 - (i) an assessment, reassessment or additional assessment of tax, interest or penalties;
 - (ii) a determination or redetermination of a loss or an amount;
 - (iii) a confirmation of an assessment, reassessment or additional assessment of tax, interest or penalties or of a determination or redetermination of a loss or an amount;

- (e) “federal regulation” means a regulation, as amended from time to time, made under the federal Act;
- (e.01) “fiscal period” means the period for which the person’s or partnership’s accounts in respect of the business or property are made up for purposes of assessment under the federal Act;
- (e.1) “jurisdiction” means a province of Canada or a country or political subdivision of a country;
- (e.2) repealed RSA 2000 cA-30 s88;
- (e.3) “large corporation”, with respect to a particular taxation year, means a corporation that is a large corporation in that taxation year within the meaning assigned by subsection 225.1(8) of the federal Act;
- (f) “permanent establishment” means a fixed place of business of the corporation, including an office, a branch, a mine, an oil well, a farm, a timber land, a factory, a workshop or a warehouse, and
 - (i) if the corporation does not have any fixed place of business it means the principal place in which the corporation’s business is conducted,
 - (ii) if a corporation carries on business through an employee or agent, established in a particular place, who has general authority to contract for the employee’s or agent’s employer or principal or who has a stock of merchandise owned by the employee’s or agent’s employer or principal from which the employee or agent regularly fills orders that the employee or agent receives, the corporation is deemed to have a permanent establishment in that place,
 - (iii) an insurance corporation is deemed to have a permanent establishment in each province and country in which the corporation is registered or licensed to do business,
 - (iv) if a corporation, otherwise having a permanent establishment in Canada, owns land in a province, that land is deemed to be a permanent establishment,
 - (v) if a corporation uses substantial machinery or equipment in a particular place at any time in a taxation year it is deemed to have a permanent establishment in that place,
 - (vi) the fact that a corporation has business dealings through a commission agent, broker or other independent agent or maintains an office solely for the purchase of merchandise shall not of itself be held to mean that the corporation has a permanent establishment,
 - (vii) the fact that a corporation has a subsidiary controlled corporation in a place or a subsidiary controlled corporation engaged in trade or business in a place shall not of itself be held to mean that the corporation is operating a permanent establishment in that place, and
 - (viii) if a corporation resident in Canada does not otherwise have a permanent establishment in Canada, the corporation is deemed to have a permanent establishment in the place where it has its registered office or in a place designated in its articles, charter or by-laws as its office or registered office;
- (g) “prescribed” means
 - (i) with respect to a form, the information to be given on a form or the manner of filing a form, authorized by the Provincial Minister,
 - (i.1) with respect to the manner of making or filing an election, authorized by the Provincial Minister, or
 - (ii) in any other case, prescribed by regulation;
- (g.01) “Provincial Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (g.011) repealed 2015 c21 Sched. 2 s1(2);
- (g.02) “Quebec Act” means the *Taxation Act* (Quebec) and includes any rules of application that are contained in any Act of the Parliament of Quebec that amends the *Taxation Act* (Quebec);

- (g.1) “refundable tax credit” means a tax credit to which a corporation is entitled under Part 6;
- (g.2) “royalty tax credit” means a tax credit to which a corporation is entitled under section 26.1;
- (g.3) repealed 2001 c1 s2;
- (h) “royalty tax deduction” means the royalty tax deduction determined in accordance with section 20(2);
- (h.1) “specified future tax consequence” for a taxation year means specified future tax consequence as defined in subsection 248(1) of the federal Act, except that the following replaces paragraph (a) of that definition:
 - (a) the consequence of the deduction or exclusion of an amount referred to in section 39(3)(a) of the *Alberta Corporate Tax Act*, and;
 - (i) “tax payable” with respect to a corporation, means the tax payable by that corporation as fixed by assessment or reassessment and subject to variation or objection or on appeal;
 - (j) “taxable income” means the income of a corporation calculated in accordance with Part 3;
 - (i.1) “tax shelter” means a tax shelter as defined in section 237.1(1) of the federal Act;
 - (k) “taxable income earned in Canada” means a corporation’s taxable income earned in Canada determined in accordance with section 17.1, except that in no case may a corporation’s taxable income earned in Canada be less than nil.

(2.1) For the purposes of this Act, a reference in this Act to the Minister of National Revenue is to be read as including the Commissioner of Revenue under the *Canada Revenue Agency Act* (Canada).

(3) If at any time an amount payable to a corporation by the Provincial Minister under this Act is applied by the Provincial Minister to reduce a liability of the corporation under this Act, the amount is an amount paid at that time on account of the liability of the corporation.

(4) Interest at a prescribed rate under this Act shall be computed and compounded daily.

(5) If interest is payable under a particular section and is not paid or applied on the day it would, but for this subsection, have ceased to be computed, interest at a prescribed rate under this Act shall be computed and compounded daily on the interest that is not paid or applied from that day to the day on which it is paid or applied.

(6) Repealed 2002 c28 s2.

RSA 2000 cA-15 s1;RSA 2000 cA-30 s88;2001 c1 s2;
2002 c28 ss2,34;2003 c34 s2;2009 c15 s2;2012 c4 s2;
2013 c11 s1;2014 c6 s1(2);2015 c21 Sched. 2 s1(2)

Application of federal Act

(2(1)) When a section of the federal Act or a regulation made under the federal Act has, by this Act, been made applicable for the purposes of this Act and reference is made in that section to another provision of the federal Act and this Act provides that the other provision is inapplicable for the purposes of this Act, then that section shall be read as if the reference to the other provision had been struck out.

(2) When a section of the federal Act or a regulation made under the federal Act has, by this Act, been made applicable for the purposes of this Act and reference is made in that section to another provision of the federal Act and that other provision does not apply for the purposes of this Act because a provision of this Act applies instead of it, then the reference to the other provision is deemed to be a reference to the provision of this Act that applies instead of it.

(3) When a section of the federal Act or a regulation made under the federal Act has, by this Act, been made applicable for the purposes of this Act and reference is made in that section to another provision of the federal Act and that other provision applies in a different manner for the purposes of the federal Act than it does for the purposes of this Act, then the reference is deemed to be a reference to the other provision as it applies for the purposes of this Act.

(3.1) If a section of the federal Act or a regulation made under the federal Act that is inapplicable for the

purposes of this Act defines a term that is used in a provision of the federal Act or a regulation under the federal Act that is applicable for the purposes of this Act, that term is deemed to have the same meaning for the purposes of this Act as it does for the purposes of the federal Act or the regulation under the federal Act, unless otherwise provided in this Act.

(4) Repealed 1981 c8 s3.

(5) In the application of a section of the federal Act that, by this Act, is made applicable for the purposes of this Act, a reference to

- (a) a return required to be filed under section 150 of that Act is deemed to be a reference to a return required to be filed under section 36 of this Act, and
- (b) an assessment required to be made under section 152 of that Act is deemed to be a reference to an assessment required to be made under section 41 of this Act.

(5.1) If a provision of the federal Act or a regulation made under the federal Act that is made applicable by this Act refers to giving a notice or making an application to the Minister of National Revenue, the notice or application may be given or made to the Provincial Minister in respect of a matter under this Act.

(5.2) If in a provision of the federal Act or a regulation made under the federal Act that is made applicable by this Act something may be done by the Minister of National Revenue, it may be done by the Provincial Minister.

(6) Subject to sections 14.1, 14.2, 14.3, 16.1, 16.2 and 34.011(2), an election or designation by a corporation that may be made under the federal Act may be filed with the Provincial Minister and if so filed the rules respecting that election or designation in the federal Act apply but, in the event that the election or designation is not filed with the Provincial Minister, the Provincial Minister shall accept an election or designation made under the federal Act and the provisions of the federal Act imposing penalties for late filing of elections or designations are not applicable for the purposes of this Act.

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

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

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

(7) Repealed 1992 c2 s3.

(8) Repealed 2015 c21 Sched. 2 s1(4).

(9) Repealed 1990 c4 s4.

(10) Subsections 248(7) and (11) of the federal Act do not apply for the purposes of this Act.

RSA 2000 cA-15 s2;2001 c1 s3;2002 c28 ss3,34;2014 c6 s1(3);
2015 c21 Sched. 2 s1(4)

Income Tax Convention or Treaty

3 If Canada has entered into an Income Tax Convention or Treaty with another jurisdiction and that Convention or Treaty is inconsistent with the federal Act and if by reason of any other Act of the Parliament of Canada that Convention or Treaty prevails to the extent of that inconsistency, that Convention or Treaty is, to the extent of the inconsistency, deemed to apply for the purposes of this Act in the same manner as it applies for the purposes of the federal Act.

Application of federal Act

4 The sections of the federal Act and the regulations made under it that are by this Act made applicable for the purposes of this Act, are, unless otherwise provided in this Act, deemed to apply as amended or re-enacted from time to time and those amendments or re-enactments shall apply for the purposes of this Act in the same manner as they apply for the purposes of the federal Act.

RSA 1980 cA-17 s4

Functional currency reporting

4.01 In determining the Canadian tax results, as defined in section 261 of the federal Act as it applies for the purposes of this Act, of a corporation for a particular taxation year,

- (a) subject to section 4.02, Canadian currency is to be used, and
- (b) subject to section 4.02 and subsection 79(7) and paragraphs 80(2)(k) and 142.7(8)(b) of the federal Act as they apply for the purposes of this Act, if a particular amount that is relevant in computing those Canadian tax results is expressed in a currency other than Canadian currency, the particular amount is to be converted to an amount expressed in Canadian currency using the relevant spot rate for the day on which the particular amount arose.

2009 c15 s3;2010 c2 s2

Functional currency election

4.02(1) A corporation that

- (a) makes an election in accordance with subsection 261(3) of the federal Act for the purposes of the federal Act is deemed to have made the same election for the purposes of this Act, or
- (b) revokes an election in accordance with subsection 261(4) of the federal Act for the purposes of the federal Act is deemed to have made the same revocation of that election for the purposes of this Act.

(2) Amounts required to be paid pursuant to section 38(1)(a) must be determined with respect to tax payable in Canadian currency.

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

- (a) all amounts payable by a corporation under this Act in respect of a taxation year must be paid in Canadian currency,
- (b) if a particular amount that is determined in the corporation's elected functional currency, other than any Alberta SR & ED 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,
- (c) the corporation's tax payable for the year must be converted to Canadian currency in accordance with the regulations,
- (d) subsections 261(2), (11), (15) and (18) of the federal Act do not apply, and
- (e) the references to subsection (18) in subsections 261(19) and (22) of the federal Act as they apply for the purposes of this Act shall be read as references to subsection (5) of this section.

(4) For the purposes of determining the amount that may be deducted in respect of a particular amount that arises in a taxation year (referred to in this subsection as the "later year") of a corporation under section 111 or subsection 126(2), 127(5), 181.1(4) or 190.1(3) of the federal Act as it applies for the purposes of this Act in computing the corporation's tax payable for a taxation year (referred to in this subsection as the "current year") that ended before the later year,

- (a) if the later year is a functional currency year of the taxpayer and the current year is a Canadian currency year of the taxpayer,
 - (i) amounts, expressed in functional currency, available to be deducted in the current year are to be converted to Canadian currency using the relevant spot rate for the last day of the corporation's last Canadian currency year, and

- (ii) amounts so deducted are to be converted back to functional currency at the same rate for purposes of determining amounts available to be deducted in any other taxation year,
 - (b) if the later year is a reversionary year of the corporation and the current year is a functional currency year of the corporation,
 - (i) amounts, expressed in Canadian currency, available to be deducted in the current year are to be converted to functional currency at the average exchange rate for the current year, determined in accordance with the regulations, and
 - (ii) amounts so deducted are to be converted back to Canadian currency at the same rate,
 - (c) if the later year is a reversionary year of the corporation and the current year is a Canadian currency year of the corporation, for the purposes of determining amounts available to be deducted in the current year, amounts deducted in a functional currency year ending after the current year and before the later year are to be converted to Canadian currency at the average exchange rate for that functional currency year determined in accordance with the regulations, and
 - (d) in any other case, this subsection does not apply.
- (5)** The Canadian tax results of a corporation for any one or more taxation years shall be determined using a particular currency if
- (a) at any time (referred to in this subsection as the “transfer time”) one or more properties are directly or indirectly transferred
 - (i) by the corporation to another corporation (referred to in this subsection as the “transferor” and the “transferee”, respectively), or
 - (ii) by another corporation to the corporation (referred to in this subsection as the “transferor” and the “transferee”, respectively),
 - (b) the transferor and the transferee are related at the transfer time or become related in the course of a series of transactions or events that includes the transfer,
 - (c) the transfer time
 - (i) is, or would in the absence of subsections 261(16) and (17) of the federal Act as they apply for the purposes of this Act be, in a functional currency year of the transferor and the transferor and the transferee have, or would in the absence of those subsections have, different tax reporting currencies at the transfer time, or
 - (ii) is, or would in the absence of those subsections be, in a reversionary year of the transferor and is not in a reversionary year of the transferee,
 - (d) it can reasonably be considered that one of the main purposes of the transfer or of any portion of a series of transactions or events that includes the transfer is to change, or to enable the changing of, the currency in which the Canadian tax results in respect of the property, or property substituted for it, for a taxation year would otherwise be determined, and
 - (e) the Minister of National Revenue directs that those Canadian tax results be determined in the particular currency.
- (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:
- (a) the corporation’s business limit for the year;
 - (b) the corporation’s maximum expenditure limit for the year;
 - (c) the dollar amounts referred to in section 24(2.1);
 - (d) the amount of any Alberta SR&ED tax credit as defined in section 26.6 that is paid to the corporation

Application of Parts 9 and 10

4.1(1) Subject to subsection (2), Parts 9 and 10 do not apply for the purposes of Parts 1 to 8.

(2) A liability of a corporation that may be reduced by the application of an amount to the liability by the Provincial Minister under section 26.4 or 47 includes a liability under Part 9 or 10.

RSA 2000 cA-15 s4.1;2002 c28 s34

Part 1 Liability for Income Tax

Liability for income tax

5(1) A corporation that has a permanent establishment in Alberta at any time in a taxation year shall pay an income tax as required by Part 5 of this Act on its amount taxable in Alberta, computed in accordance with Part 4, for that taxation year.

(2) The income of a corporation for a taxation year shall be determined in accordance with Part 2.

(3) The taxable income of a corporation for a taxation year shall be determined in accordance with Part 3.

(3.1) Notwithstanding subsections (2) and (3), a corporation not resident in Canada shall compute its taxable income earned in Canada in accordance with section 17.1.

(4) The amount taxable in Alberta of a corporation for a taxation year is to be determined in accordance with Part 4.

RSA 2000 cA-15 s5;2002 c28 s4

5.1 Repealed 2015 c21 Sched. 2 s1(5).

Part 2 Computation of Income

Income for taxation year

6 Subject to sections 6.1 and 6.2, the income of a corporation for a taxation year is its income for the year determined by the following rules:

- (a) determine the aggregate of amounts each of which is the corporation's income for the year (other than a taxable capital gain from the disposition of a property) from a source inside or outside Canada, including, without restricting the generality of the foregoing, its income for the year from each business and property;
- (b) determine the amount, if any, by which
 - (i) the aggregate of its taxable capital gains for the year from dispositions of property other than listed personal property, and its taxable net gain for the year from dispositions of listed personal property,

exceeds
 - (ii) the amount, if any, by which its allowable capital losses for the year from dispositions of property other than listed personal property exceed its allowable business investment losses for the year;
- (c) determine the amount, if any, by which the aggregate determined under clause (a) plus the amount determined under clause (b) exceeds the aggregate of the deductions permitted by Division 4 of this Part in computing the corporation's income for the year (except such of or such part of those deductions, if any, as have been taken into account in determining the aggregate referred to in clause (a));
- (d) determine the amount, if any, by which the remainder determined under clause (c) exceeds the aggregate of amounts each of which is its loss for the year from a business or property or its allowable

business investment loss for the year;

and for the purposes of this Act,

- (e) where an amount is determined under clause (d) for the year in respect of the corporation, the corporation's income for the year is the amount so determined, and
- (f) in any other case, the corporation is deemed to have income for the year in an amount equal to zero.

RSA 2000 cA-15 s6;2001 c1 s4

Cost amount of property

6.1 Where the cost amount of property owned by a corporation is relevant in the computation of income for the purposes of this Act, the cost amount, for the purposes of this Act, of any property owned by the corporation at the time it establishes a permanent establishment in Alberta is deemed to be the cost amount of such property, at that time, for purposes of the computation of income under the federal Act.

2001 c1 s5

Rules for depreciable property

6.2 Where the property referred to in section 6.1 is depreciable property and the capital cost of such property to the corporation immediately prior to the time the corporation establishes a permanent establishment in Alberta exceeds the cost amount of such property as determined under section 6.1, for the purposes of applying those sections of this Act that make applicable for the purposes of this Act sections 13 and 20 of the federal Act and any federal regulations made for the purposes of paragraph 20(1)(a) of the federal Act,

- (a) the capital cost of the property to the corporation is deemed to be the capital cost to the corporation of the property for the purposes of the federal Act immediately prior to the time it established a permanent establishment in Alberta, and
- (b) the excess is deemed to have been deducted by the corporation under the sections of this Act that make applicable paragraph 20(1)(a) of the federal Act.

2001 c1 s5

Income or loss

7(1) For the purposes of this Act,

- (a) a corporation's income or loss for a taxation year from a business, property or other source, or from sources in a particular place, is the corporation's income or loss, as the case may be, computed in accordance with this Act on the assumption that it had during the taxation year no income or loss except from that source or no income or loss except from those sources, as the case may be, and was allowed no deductions in computing its income for the taxation year except such deductions as may reasonably be regarded as wholly applicable to that source or to those sources, as the case may be, and except such part of any other deductions as may reasonably be regarded as applicable thereto, and
 - (b) if the business carried on by a corporation was carried on partly in one place and partly in another place, the corporation's income or loss for the taxation year from the business carried on by it in a particular place is the corporation's income or loss, as the case may be, computed in accordance with this Act on the assumption that it had during the taxation year no income or loss except from the part of the business that was carried on in that particular place and was allowed no deductions in computing its income for the taxation year except such deductions as may reasonably be regarded as wholly applicable to that part of the business and except such part of any other deductions as may reasonably be regarded as applicable thereto.
- (2)** Subject to subsection (3), in applying subsection (1) no deductions permitted by section 60 of the federal Act, as made applicable by section 11 of this Act, are applicable either wholly or in part to a particular source or to sources in a particular place, as the case may be.
- (3)** In applying subsection (1) for the purposes of section 23 of this Act and subsections 104(22) and (22.1) of the federal Act,
- (a) subject to clause (b), all deductions permitted in computing a corporation's income for a taxation year, except any deduction permitted by paragraph 60(o) of the federal Act, shall apply either wholly or in part to a particular source or to sources in a particular place, and

- (b) any deduction permitted by subsection 104(6) or (12) of the federal Act shall not apply either wholly or in part to a source in a country other than Canada.

(4) Repealed 1997 c2 s2.

RSA 1980 cA-17 s7;1982 c1 s4;1992 c2 s5;1995 c3 s12;
1997 c2 s2

Division 1

Income or Loss from a Business or Property

Income or loss

8(1) Subject to subsections (1.1) to (3), subdivision b of Division B of Part I of the federal Act applies in determining the income or loss of a corporation from a business or property for a taxation year.

(1.1) In the application of subdivision b of Division B of Part I of the federal Act, a reference to amounts deducted under subsection 127(5) of the federal Act includes the amounts deemed to have been deducted under that subsection by subsection 127.1(3) or 192(10) of the federal Act.

(2) Subdivision b of Division B of Part I of the federal Act is deemed to include subsection 7(3) of the federal Act.

(2.001) In the application of subsection 12(1) of the federal Act,

- (a) the reference in paragraph (o) to “or in respect of the late receipt or non-receipt of any such amount” does not apply for the purposes of this Act,
- (b) paragraph (x.1) does not apply for the purposes of this Act,
- (c) for each taxation year that ends after 2002 and before 2007, the repeal of paragraph (o) does not apply for the purposes of this Act,
- (d) for taxation years that end after 2002 and before 2007, paragraph (z.5) shall be read as “25% of the taxpayer’s prescribed resource loss for the year”,
- (e) notwithstanding paragraph (x.2) as it applies for the purposes of this Act, payments received under the Alberta Royalty Tax Credit program shall be excluded from the calculation of taxable income,
- (f) for a taxation year that begins in 2006 and ends in 2007, the repeal of paragraph (o) does not apply for the purposes of this Act to the proportion of the amount described by that paragraph that the number of days in the taxation year in 2006 bears to the number of days in the taxation year, and
- (g) for a taxation year that begins in 2006 and ends in 2007, paragraph (z.5) shall be read as “that proportion of 25% of the taxpayer’s prescribed loss for the year that the number of days in the taxation year in 2006 bears to the number of days in the taxation year”.

(2.002) Subsection 17(7) of the federal Act does not apply for the purposes of this Act.

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

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

(b), (b.1), (b.2) repealed 2014 c6 s1(6),

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

(2.02) Repealed 2014 c6 s1(6).

(2.03) Where a corporation has deducted an amount pursuant to paragraph 20(7)(c) of the federal Act in computing its income or loss for a taxation year for the purposes of the federal Act, the corporation must deduct the same amount for the year for the purposes of this Act pursuant to that provision as made applicable

by this Act.

(2.04) If, in computing its income or loss for its last taxation year ending before the coming into force of subsection (2.03) (in this subsection referred to as the “particular year”), a corporation deducted an amount pursuant to paragraph 20(7)(c) of the federal Act as it applied for the purposes of this Act that was higher than the amount deducted pursuant to paragraph 20(7)(c) of the federal Act in computing its income or loss for the purposes of the federal Act for the particular year,

- (a) in computing its income or loss for the immediately following taxation year, the amount that shall be included by virtue of paragraph 12(1)(e) of the federal Act as it applies for the purposes of this Act is the amount deducted by the corporation pursuant to paragraph 20(7)(c) of the federal Act in computing its income or loss for the purposes of the federal Act for the particular year, and
- (b) in computing its income or loss for the immediately following taxation year and for each of the 4 taxation years following that year, the corporation shall include an amount in income equal to 1/5 of the difference between the amount deducted pursuant to paragraph 20(7)(c) of the federal Act in the computation of income or loss for the purposes of the federal Act for the particular year and the amount deducted pursuant to paragraph 20(7)(c) of the federal Act as it applied for the purposes of this Act in the computation of income or loss for the purposes of this Act for the particular year.

(2.1) Subsection 20(12) of the federal Act does not apply for the purposes of this Act.

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

(2.3) In determining the income of a corporation for a taxation year, taxes imposed by another province or territory of Canada and computed by reference to the amount of a corporation’s capital are not deductible for the purposes of this Act.

(3) In the application of subsection 22(2) of the federal Act, the reference to “Minister” is deemed to be a reference to the Provincial Minister.

(4) Subsection 27(2) of the federal Act does not apply for the purposes of this Act.

RSA 2000 cA-15 s8;2001 c1 s6;2002 c28 ss5,34;
2004 c21 s2;2007 c25 s2;2012 c4 s4;2014 c6 s1(6)

8.1, 8.2 Repealed 1995 c3 s3.

Application of federal Act

8.3 Section 246 except paragraph 246(1)(b) of the federal Act applies in computing income except that the reference to Part I of that Act is deemed to be a reference to this Act.

1990 c4 s6

Federal transfer pricing rules

8.4(1) Section 247, except subsections (3) and (11), of the federal Act applies in computing income for the purposes of this Act.

(2) This section applies to taxation years and fiscal periods that begin after 1997.

2001 c1 s7

Division 2

Taxable Capital Gains and Allowable Capital Losses

Capital gains and capital losses

9(1) Subject to subsections (2) and (3), subdivision c of Division B of Part I of the federal Act applies to determine the taxable capital gains and allowable capital losses of a corporation from the disposition of any property.

(2) In the application of subdivision c of Division B of Part I of the federal Act, a reference to amounts deducted under subsection 127(5) of the federal Act includes the amounts deemed to have been deducted under that subsection by subsection 127.1(3) or 192(10) of the federal Act.

(3) Where a corporation has claimed an amount pursuant to subparagraph 40(1)(a)(iii) of the federal Act in computing its gain from the disposition of a property for a taxation year for the purposes of the federal Act, the corporation must claim the same amount for that year for the purposes of this Act pursuant to that provision as made applicable by this Act.

RSA 2000 cA-15 s9;2013 c11 s1

9.1 Repealed 1995 c3 s4.

Division 3 Other Sources of Income

Other sources of income

10(1) Subject to subsections (2) and (3), subdivision d of Division B of Part I of the federal Act applies to other sources of income.

(2) In the application of paragraph 56(1)(l) of the federal Act, a determination made by the Provincial Minister under section 41(1.11) or (2) is deemed to be an assessment or reassessment by the Provincial Minister.

(3) Paragraph 59.1(b) of the federal Act shall be read as though “subsections 152(4) and (5)” was struck out and “section 43 of this Act” was substituted.

RSA 2000 cA-15 s10;2002 c28 s34

Division 4 Deductions in Computing Income

Deductions

11(1) Subject to subsections (1.1) and (2), subdivision e of Division B of Part I of the federal Act applies to deductions in computing income.

(1.1) In the application of subdivision e of Division B of Part I of the federal Act, a reference to amounts deducted under subsection 127(5) of the federal Act includes the amounts deemed to have been deducted under that subsection by subsection 127.1(3) or 192(10) of the federal Act.

(2) In the application of paragraph 60(o) of the federal Act, a determination made by the Provincial Minister under section 41(1.11) or (2) is deemed to be an assessment or reassessment by the Provincial Minister.

RSA 2000 cA-15 s11;2002 c28 s34

Division 5 Rules Relating to Computation of Income

Computation of income rules

12(1) Subject to subsection (2), subdivisions f and g of Division B of Part I of the federal Act apply for the purposes of this Act.

(2) Subsections 67.5(2) and 69(12) of the federal Act do not apply for the purposes of this Act.

RSA 2000 cA-15 s12;2001 c1 s8

Reimbursement of Crown charges

12.1(1) Section 80.2 of the federal Act does not apply for the purposes of this Act in respect of reimbursement of Crown charges imposed in respect of production after December 31, 2002.

(2) Where, in respect of the period that begins on January 1, 2003 and ends on December 31, 2006,

- (a) a taxpayer, under the terms of a contract, pays to another person an amount (in this section referred to as the “specified payment”) that may reasonably be considered to have been received by the other person as a reimbursement, contribution or allowance in respect of an amount (referred to in clause (b) as the “particular amount”) paid or payable by the other person,
- (b) the particular amount is included in the income of the other person or is denied as a deduction in computing the income of the other person by reason of paragraph 12(1)(o) or 18(1)(m) of the federal Act, as the case may be, as it applies for the purposes of this Act, and

- (c) the taxpayer was resident in Canada or carrying on a business in Canada at the time the specified payment was made by the taxpayer,

the following rules apply for the purposes of this Act, other than this section:

- (d) the taxpayer is deemed neither to have made nor to have become obligated to make the specified payment to the other person but to have paid an amount described in paragraph 18(1)(m) of the federal Act as it applies for the purposes of this Act equal to the amount of the specified payment, and
- (e) the other person is deemed neither to have received nor to have become entitled to receive the specified payment from the taxpayer.

2006 c10 s2

13 Repealed 1990 c4 s8.

Division 6

Corporations and Corporate Shareholders

Computation of income of corporations

14(1) Subject to subsections (2), (3), (3.01), (3.02), (3.1), (3.2), (4) and (5) and sections 14.1, 14.2 and 14.3, subdivision h of Division B of Part I of the federal Act applies for the purposes of this Act.

(2) Paragraph 83(3)(b) of the federal Act shall be read as though “penalty” was struck out and “penalty under subsection (4) of the federal Act” was substituted.

(3) Subsections 83(3.1), (4) and (5) of the federal Act do not apply.

(3.01) Section 86.1 of the federal Act, except subsection (5), applies for the purposes of this Act if the information and the election required to be filed with the federal Minister are also filed with the Provincial Minister within the time period set out in section 86.1 of the federal Act.

(3.02) Where the cost amount to the corporation of the original shares referred to in subsection 86.1(3) of the federal Act is different for the purposes of this Act than for the purposes of the federal Act, the information filed with the Provincial Minister under subsection (3.01) of this section must include the cost adjustment calculation described in subsection 86.1(3) of the federal Act using the cost amount to the corporation of the original shares calculated for the purposes of this Act.

(3.1) Where there has been an amalgamation of 2 or more corporations and subsection 87(2) of the federal Act, as made applicable for the purposes of this Act, applies, the following rules also apply:

- (a) repealed 1985 c1 s3;
- (b) in order to determine the amount referred to in section 25(3)(a) for the new corporation at any time, there shall be added to the amount otherwise determined under that section the aggregate of the amounts that would have been determined under section 25(3)(a) for each predecessor corporation immediately before the amalgamation;
- (c) the aggregate of the over-integration tax adjustments of the new corporation at the beginning of its first taxation year is the total of the aggregate of the over-integration tax adjustments of each predecessor corporation at the end of its last taxation year.

(3.2) If a taxable Canadian corporation has been wound up and subsection 88(1) of the federal Act, as made applicable for the purposes of this Act, applies, the following rules also apply:

- (a) repealed 1985 c1 s3;
- (b) in order to determine the amount referred to in section 25(3)(a) for the parent at any time in a taxation year ending after the commencement of the winding-up, there is to be added to the amount otherwise determined the amount that would have been determined under section 25(3)(a) for the subsidiary immediately before the commencement of the winding-up and section 25(3) shall not apply to the subsidiary for the taxation year in which the winding-up commenced or any subsequent taxation year;

- (c) there shall be added to the parent corporation's aggregate of the over-integration tax adjustments at the beginning of its first taxation year after the commencement of the winding-up the aggregate of the over-integration tax adjustments of the subsidiary at the end of its last taxation year ending before that time.
- (4) In the application of section 89 of the federal Act for the purposes of this Act,
- (a) the definition of "eligible dividend" in subsection (1) shall be read as "any amount that is an eligible dividend for purposes of the federal Act";
 - (b) the following definitions apply instead of the definitions of "general rate income pool" and "low rate income pool" in subsection (1):
 - (i) "general rate income pool" is deemed to be an amount equal to the value of the general rate income pool for purposes of the federal Act at the particular time;
 - (ii) "low rate income pool" is deemed to be an amount equal to the value of the low rate income pool for purposes of the federal Act at the particular time;
 - (c) paragraph (b) in the definition of "taxable Canadian corporation" in subsection (1) shall be read as though "under this Part" were struck out and "under Part 1 of the federal Act and under this Act" were substituted.
- (5) If a corporation makes an election under subsection 89(11) of the federal Act or revokes an election under subsection 89(12) of the federal Act, it is deemed to have made or revoked the same election for the purposes of this Act.

RSA 2000 cA-15 s14;2001 c1 s9;2005 c25 s17;
2008 c29 s2

Transfer of property to a corporation

14.1(1) Subsection 85(1) of the federal Act applies in respect of the transfer of property to a corporation for the purposes of this Act only if a valid federal election has been made under subsection 85(1) of the federal Act in respect of the transfer of that property.

(2) Subject to subsection (3), where subsection 85(1) of the federal Act applies for the purposes of this Act in respect of the transfer of property to a corporation, the amount deemed to be the proceeds of disposition of the property to the corporation or individual disposing of the property and the cost of the property to the corporation acquiring the property for the purposes of the federal Act is the amount to be deemed for the purposes of this Act.

(3) If

- (a) the corporation disposing of the property was a qualified party for the taxation year in which it disposed of the property, and
- (b) the corporation acquiring the property was a qualified party for the taxation year in which it acquired the property and throughout all of its taxation years beginning in the 36 months subsequent to the end of the taxation year in which it acquired the property,

the corporation disposing of the property and the corporation acquiring the property may, for the purposes of this Act, jointly elect in the prescribed form and in accordance with section 14.3(3) an amount under subsection (4) to be the proceeds of disposition of the property to the corporation disposing of the property and the cost of the property to the corporation acquiring the property.

(4) For the purposes of an election under subsection (3), one of the following may be elected:

- (a) the amount deemed to be the proceeds of disposition and the cost of the property under the federal Act;
- (b) the amount equal to the amount in clause (a) less the cost amount of the property for the purposes of the computation of income under the federal Act, plus the cost amount of the property for the purposes of the computation of income under this Act, both determined immediately before the disposition to which the election relates;

- (c) an amount that is greater than the lesser of the amounts described in clauses (a) and (b), but less than the greater of the amounts described in clauses (a) and (b).

(5) For the purposes of subsection (3), a qualified party is a corporation whose Alberta allocation factor for the particular taxation year, as determined by section 19, is at least 90%.

2001 c1 s10;2002 c28 s6;2003 c34 s3

Transfer of property from a partnership

14.2(1) Subsection 85(2) of the federal Act applies in respect of the transfer of property to a corporation from a partnership for the purposes of this Act only if a valid federal election has been made under subsection 85(2) of the federal Act in respect of the transfer of that property.

(2) Subject to subsection (3), where subsection 85(2) of the federal Act applies for the purposes of this Act in respect of the transfer of property to a corporation, the amount deemed to be the proceeds of disposition of the property to the partnership disposing of the property and the cost of the property to the corporation acquiring the property for the purposes of the federal Act is the amount to be deemed for the purposes of this Act.

(3) If

- (a) one or more of the members of the partnership disposing of the property is a corporation,
- (b) the partnership disposing of the property was a qualified party for the fiscal period in which it disposed of the property, and
- (c) the corporation acquiring the property was a qualified party for the taxation year in which it acquired the property and throughout all of its taxation years beginning in the 36 months subsequent to the end of the taxation year in which it acquired the property,

all of the members of the partnership disposing of the property and the corporation acquiring the property may, for the purposes of this Act, jointly elect in the prescribed form and in accordance with section 14.3(3) an amount under subsection (4) to be the proceeds of disposition of the property to the partnership disposing of the property and the cost of the property to the corporation acquiring the property.

(4) For the purposes of an election under subsection (3), one of the following may be elected:

- (a) the amount deemed to be the proceeds of disposition and the cost of the property under the federal Act;
- (b) the amount equal to the amount in clause (a) less the cost amount of the property for the purposes of the computation of income under the federal Act, plus the cost amount of the property for the purposes of the computation of income under this Act, both determined immediately before the disposition to which the election relates;
- (c) an amount that is greater than the lesser of the amounts described in clauses (a) and (b), but less than the greater of the amounts described in clauses (a) and (b).

(5) For the purposes of subsection (3), a qualified party is

- (a) in the case of a corporation, a corporation whose Alberta allocation factor for the particular taxation year, as determined by section 19, is at least 90%, and
- (b) in the case of a partnership, a partnership which, if it were treated as a corporation having a taxation year corresponding to its fiscal period, would have an Alberta allocation factor for the particular taxation year, as determined by section 19, of at least 90%.

2001 c1 s10;2002 c28 s7;2003 c34 s4

Filing of election form

14.3(1), (2) Repealed 2002 c28 s8.

(3) The election form referred to in sections 14.1(3) and 14.2(3) must be filed with the Provincial Minister by the corporation that acquired the property at the time its income tax return is due for the last taxation year beginning in the 36-month period referred to in section 14.1(3)(b) or 14.2(3)(c), as the case may be.

2001 c1 s10;2002 c28 s8;2005 c25 s17

Shareholders of non-resident corporations

15(1) Subject to subsection (2), subdivision i of Division B of Part I of the federal Act applies for the purpose of computing the income of a corporation.

(2) Paragraphs 95(6)(a) and (b) of the federal Act shall be read as though “under this Act” was struck out and “under the federal Act and under this Act” was substituted.

RSA 1980 cA-17 s15

Division 7 Partnerships

Partnership

16 Subject to sections 16.1 and 16.2, subdivision j of Division B of Part I of the federal Act applies for the purposes of computing the income of a corporation.

RSA 2000 cA-15 s16;2001 c1 s11

Transfer of property to a partnership

16.1(1) Subsection 97(2) of the federal Act applies in respect of the transfer of property from a corporation to a partnership for the purposes of this Act only if a valid federal election has been made under subsection 97(2) of the federal Act in respect of the transfer of that property.

(2) Subject to subsection (3), where subsection 97(2) of the federal Act applies for the purposes of this Act in respect of the transfer of property to a partnership, the amount deemed to be the proceeds of disposition of the property to the corporation disposing of the property and the cost of the property to the partnership acquiring the property for purposes of the federal Act is the amount to be deemed for the purposes of this Act.

(3) If

- (a) the corporation disposing of the property was a qualified party in the taxation year in which it disposed of the property,
- (b) one or more of the members of the partnership acquiring the property was a corporation, and
- (c) the partnership acquiring the property was a qualified party for the fiscal period in which the acquisition occurred and throughout all of its fiscal periods beginning in the 36 months subsequent to the end of the fiscal period in which it acquired the property,

the corporation disposing of the property and all of the members of the partnership acquiring the property may, for the purposes of this Act, jointly elect in the prescribed form and in accordance with section 16.2(3) an amount under subsection (4) to be the proceeds of disposition of the property to the corporation disposing of the property and the cost of the property to the partnership acquiring the property.

(4) For the purposes of an election under subsection (3), one of the following may be elected:

- (a) the amount deemed to be the proceeds of disposition and the cost of the property under the federal Act;
- (b) the amount equal to the amount in clause (a) less the cost amount of the property for the purposes of the computation of income under the federal Act, plus the cost amount of the property for the purposes of the computation of income under this Act, both determined immediately before the disposition to which the election relates;
- (c) an amount that is greater than the lesser of the amounts described in clauses (a) and (b), but less than the greater of the amounts described in clauses (a) and (b).

(5) For the purposes of subsection (3), a qualified party is

- (a) in the case of a corporation, a corporation whose Alberta allocation factor for the particular taxation year, as determined by section 19, is at least 90%, and
- (b) in the case of a partnership, a partnership which, if it were treated as a corporation having a taxation year corresponding to its fiscal period, would have an Alberta allocation factor for the particular taxation year, as determined by section 19, of at least 90%.

2001 c1 s12;2002 c28 s9;2003 c34 s5

Filing of election form

16.2(1), (2) Repealed 2002 c28 s10.

(3) The election form referred to in section 16.1(3) must be filed by all of the members of the partnership with the Provincial Minister at the time when the income tax return is first due for a member of the partnership that is a corporation for its taxation year that includes the last fiscal period of the partnership beginning in the 36-month period referred to in section 16.1(3)(c).

2001 c1 s12;2002 c28 s10;2005 c25 s17

Division 8 Trusts

Trusts

17(1) Subdivision k of Division B of Part I of the federal Act applies for the purposes of computing the income of a corporation.

(2) Section 122.1 of the federal Act applies for the purposes of applying section 104 of the federal Act for the purposes of this Act.

RSA 2000 cA-15 s17;2008 c29 s3;2014 c6 s1(9)

Division 9 Non-Residents

Taxable income of non-resident corporation

17.1(1) Sections 115, 115.1 and 115.2 of the federal Act apply for the purposes of determining the taxable income earned in Canada by a non-resident corporation.

(2) Subsection 115(1) of the federal Act shall be read as if the references to section 3 or any of its paragraphs in subsection 115(1) of the federal Act were references to section 6 of this Act or the corresponding clauses of section 6.

RSA 2000 cA-15 s17.1;2002 c28 s11

Part 3 Computation of Taxable Income

Taxable income of corporation

18(1) Taxable income for the taxation year shall be income as determined under Part 2 of this Act plus any amount added under subsection (1.1) and less any deductions allowed by subsection (2).

(1.1) There may be added to a corporation's taxable income otherwise determined for a taxation year any amount up to the amount added by the corporation under section 110.5 of the federal Act to the extent that the addition does not increase an amount deductible by the corporation under section 22 or 22.2 for the year.

(2) Subject to subsection (3), sections 110, 110.1, 111, 112 and 113 of the federal Act apply in the calculation of taxable income for the purposes of this Act.

(3) In the application of section 111 of the federal Act

(a) subparagraph 111(3)(a)(ii) does not apply,

(a.1) paragraph (b) under C in the definition of "net capital loss" in subsection 111(8) shall be read as if "or claimed by the taxpayer under paragraph 186(1)(c) or (d)" were struck out,

(a.2) to determine the non-capital loss of a corporation for a taxation year, the reference to section 110.5 under B in the definition of "non-capital loss" in subsection 111(8) shall be read as a reference to section 18(1.1) of this Act,

(a.3) subsection 111(10) does not apply, and

(b) with respect to the computation of taxable income for taxation years of a corporation to which this Act applies, no deduction shall be allowed for a corporation's non-capital losses, net capital losses, restricted farm losses or farm losses determined under this Act for the 1983 or subsequent taxation years to the extent that those losses have been deducted in computing taxable income for taxation years of the corporation to which the *Alberta Income Tax Act* applies.

(4) Where the value of a gift has been determined under subsection 118.1(10) of the federal Act, the value of the gift as determined under that provision is the value of the gift for the purposes of this Act.

(5) Where the value of a gift has been determined under subsections 118.1(10.1) to (10.5) of the federal Act, the value of the gift as determined under those provisions is the value of the gift for the purposes of this Act.

RSA 2000 cA-15 s18;RSA 2000 cA-30 s88;2001 c1 s63;
2002 c28 s12

Part 4

Computation of Amount Taxable in Alberta

Division 1

Alberta Allocation Factor

Alberta allocation factor

19(1) The Alberta allocation factor is the quotient obtained when taxable income earned in Alberta is divided by taxable income.

(1.1) For the purposes of sections 14.1(5), 14.2(5) and 16.1(5), in a year when a corporation or partnership does not have taxable income, the Alberta allocation factor shall be determined as if the taxable income of the corporation or partnership were \$1 for the year.

(2) Subject to subsection (3), in this section, “taxable income earned in Alberta” means the amount determined in accordance with the regulations.

(3) Where a corporation is not resident in Canada, for the purposes of this Part and in the determination of taxable income earned in Alberta by the non-resident corporation, the reference to taxable income in subsection (1) shall be read as a reference to taxable income earned in Canada.

RSA 2000 cA-15 s19;2002 c28 s13;2003 c34 s6;
2007 c25 s3;2008 c29 s4

Division 2

Amount Taxable in Alberta

Amount taxable in Alberta

19.1 The amount taxable in Alberta is the product obtained when taxable income less the royalty tax deduction is multiplied by the Alberta allocation factor.

2003 c34 s7

Division 3

Royalty Tax Deduction

Royalty tax deduction

20(1) In this section,

- (a) “first successor pool” in respect of a corporation means the amount by which
 - (i) a first successor pool amount available to be carried forward that was acquired or deemed to have been acquired pursuant to subsection (7), (8) or (14),
exceeds
 - (ii) the aggregate of the royalty tax deduction claim amounts deducted under subsection (2) in respect of the pool for all taxation years ending after the pool amount available to be carried forward was acquired or deemed to have been acquired;
- (b) “pool amount available to be carried forward” at the end of a taxation year means
 - (i) in respect of a first successor pool or a second successor pool, the pool amount available to be carried forward at the end of the immediately preceding taxation year, or
 - (ii) in respect of an unsuccessored pool, the net amount available for the taxation year in respect of the pool

less the royalty tax deduction claim amount in respect of the pool for the taxation year, unless the corporation did not have a permanent establishment in Alberta at some time during the year, in which case the pool amount available to be carried forward at the end of the taxation year is deemed to be nil;

(c) “property income” means an amount equal to such part of the corporation’s income for the year if no deduction were allowed under section 65, 66, 66.1, 66.2, 66.4, 66.5 or 66.7 of the federal Act as may reasonably be regarded as attributable to the production of petroleum, natural gas or related hydrocarbons or metal or minerals from the properties acquired or deemed to have been acquired pursuant to subsection (7), (8) or (14) and in respect of which an amount was carried forward pursuant to subsection (7), (8) or (14) and included in the pool in respect of which the royalty tax deduction claim amount is being determined;

(d) “second successor pool” in respect of a corporation means the amount by which

(i) a second successor pool amount available to be carried forward that was acquired or deemed to have been acquired pursuant to subsection (7), (8) or (14),

exceeds

(ii) the aggregate of the royalty tax deduction claim amounts deducted under subsection (2) in respect of the pool for all taxation years ending after the pool amount available to be carried forward was acquired or deemed to have been acquired;

(e) “unsuccessored pool” in respect of a corporation means the amount determined by the formula:

$$A + B - C$$

where

A is the amount deemed to have been acquired pursuant to subsection (7)(a),

B is the aggregate of all amounts each of which is the value of A calculated in accordance with subsection (6) for a taxation year,

C is the aggregate of the royalty tax deduction claim amounts in respect of the pool for all taxation years.

(2) Subject to subsection (3), a corporation’s royalty tax deduction for the year is the aggregate of its royalty tax deduction claim amounts in respect of its unsuccessored pool, first successor pools and second successor pools.

(3) The corporation’s royalty tax deduction for the year cannot exceed its taxable income for the year.

(4) Subject to subsection (3), the royalty tax deduction claim amount of the corporation in respect of each first successor pool or second successor pool cannot exceed the lesser of

(a) the pool amount available to be carried forward at the end of the immediately preceding taxation year, and

(b) property income in the taxation year.

(5) Subject to subsection (3), the royalty tax deduction claim amount of the corporation in respect of the corporation’s unsuccessored pool is the lesser of

(a) the net amount available for the taxation year as calculated under subsection (6), and

(b) taxable income of the corporation for the year less the aggregate of all royalty tax deduction claim amounts for the year in respect of its first successor and second successor pools.

(6) The net amount available for a taxation year in respect of the corporation’s unsuccessored pool is the amount determined by the formula

$$(A + B)$$

where

A is the amount, if any, by which the aggregate of

- (a) the amounts required to be included in computing the corporation's income for the year by virtue of paragraph 12(1)(o) of the federal Act as it applies for the purposes of this Act,
- (b) the amounts in respect of which no deduction is allowed in computing the corporation's income for the year by virtue of paragraph 18(1)(m) of the federal Act as it applies for the purposes of this Act, other than amounts described in the definition of "Canadian development expense" in subsection 66.2(5) of the federal Act or the definition of "Canadian oil and gas property expense" in subsection 66.4(5) of the federal Act,
- (c) any amounts by which the fair market value, as determined under subsection 69(8) of the federal Act, of petroleum, natural gas or related hydrocarbons or metal or minerals disposed of under dispositions referred to in subsection 69(6) of the federal Act, exceeds the proceeds of disposition, if any, actually received by the corporation in respect of the petroleum, natural gas or related hydrocarbons or metal or minerals so disposed of,
- (d) any amounts by which the amount referred to in subsection 69(7) of the federal Act in respect of acquisitions of petroleum, natural gas or related hydrocarbons or metal or minerals referred to in that subsection exceeds the fair market value, as determined under subsection 69(9) of the federal Act, of the petroleum, natural gas or related hydrocarbons or metal or minerals so acquired, and
- (e) any amount that would be deemed to have been payable in the year by a trust to the corporation as beneficiary of the trust under subsection 104(29) of the federal Act,

exceeds the aggregate of

- (f) the amount of reimbursement received by the corporation under the terms of a contract, where the reimbursement was for an amount paid or payable by the corporation that is required to be included in computing its income or denied as a deduction in computing its income by virtue of paragraph 12(1)(o) or 18(1)(m) of the federal Act as it applies for the purposes of this Act, and
- (g) the amount allowed to the corporation for the year under section 8 in its adoption of paragraph 20(1)(v.1) of the federal Act;

B is the pool amount available to be carried forward at the end of the immediately preceding taxation year.

(7) Notwithstanding section 20(1)(b), where at the beginning of the first taxation year to which this section applies, the corporation, or the corporation as a successor corporation or a second successor corporation, had attributed royalty income carry forward as defined in subsection (4) as it formerly read,

- (a) the corporation is deemed to have acquired an unsuccessored pool amount available to be carried forward at that time equal to the attributed royalty income carry forward at the end of the immediately preceding taxation year in respect of which it was neither a successor corporation nor a second successor corporation as defined in subsection (5) or (6) as they formerly read,
- (b) the corporation, formerly referred to as the successor corporation, is deemed to have acquired a first successor pool amount available to be carried forward at that time equal to the attributed royalty income carry forward at the end of the immediately preceding taxation year in respect of which it was a successor corporation as defined in subsection (5) as it formerly read,
- (c) the corporation, formerly referred to as the second successor corporation, is deemed to have acquired a second successor pool amount available to be carried forward at that time equal to the attributed royalty income carry forward at the end of the immediately preceding taxation year in respect of which it was a second successor corporation as defined in subsection (6) as it formerly read, and
- (d) the attributed royalty income carry forward of the corporation, the successor corporation and the second successor corporation is deemed to be nil.

(8) Except with respect to an amalgamation or winding-up to which subsection (10) or (11) applies, if a corporation has, at any time, acquired by purchase, amalgamation, merger, winding-up or otherwise from another person (in this subsection referred to as the “predecessor”) all or substantially all of the Canadian resource properties of the predecessor,

(a) the corporation is deemed to have acquired

- (i) a first successor pool amount available to be carried forward at the beginning of the taxation year in which the corporation acquired the properties equal to the unsuccessored pool amount that the predecessor would have been entitled to carry forward in respect of its taxation year in which the properties were acquired, and
- (ii) second successor pool amounts available to be carried forward at the beginning of the taxation year in which the corporation acquired the properties equal to the first successor pool amounts that the predecessor would have been entitled to carry forward in respect of its taxation year in which the properties were acquired,

and

(b) the predecessor’s unsuccessored, first successor and second successor pool amounts available to be carried forward at the end of the taxation year in which it disposed of the properties are deemed to be nil.

(9) Where a corporation is not resident in Canada, the references to taxable income in subsections (3) and (5) and section 19.1 shall be read as a reference to taxable income earned in Canada.

(10) If there has been an amalgamation described in subsection 87(1) of the federal Act of corporations described in subsection 87(1.1) or (1.2) of the federal Act, the new corporation is, for the purposes of this section, deemed to be the same corporation as and a continuation of each predecessor corporation, except that this subsection shall in no respect affect the determination of any predecessor corporation’s fiscal period, taxable income or tax payable.

(11) For the purposes of this section, if the rules in subsection 88(1) of the federal Act applied to the winding-up of a subsidiary, its parent is deemed to be the same corporation as and a continuation of the subsidiary.

(12) Subsection (8) does not apply to a corporation when the predecessor referred to in that subsection is exempt from tax under Part I of the federal Act on its taxable income, unless the predecessor

(a) is a corporation referred to in paragraph 149(1)(d) of the federal Act, and

(b) is a principal-business corporation as defined in subsection 66(15) of the federal Act.

(13) If a corporation is a member of a partnership, in computing for a taxation year each of the amounts described in the definition of A in subsection (6), it shall include its share of each of those amounts of the partnership, calculated as if the partnership were a corporation.

(14) For the purposes of this section, where at any time

(a) control of a corporation is acquired by a person or group of persons, or

(b) a corporation ceases to be exempt from tax under this Act on its taxable income,

so that subsection 66.7(10) of the federal Act as adopted by section 11(1) applies for the purposes of this Act, the following rules apply:

(c) the corporation is deemed to have disposed of all of the Canadian resource properties owned by it immediately prior to that time and to have acquired all of those properties from a predecessor immediately after that time;

(d) the corporation’s unsuccessored pool amount available to be carried forward at the beginning of the taxation year commencing at that time is deemed to be nil and the corporation is deemed to have acquired a first successor pool amount available to be carried forward equal to its unsuccessored pool amount available to be carried forward at the end of the taxation year ending immediately before that

time;

- (e) the corporation's first successor pool amounts available to be carried forward at the beginning of the taxation year commencing at that time are deemed to be nil and the corporation is deemed to have acquired second successor pool amounts available to be carried forward equal to its first successor pool amounts available to be carried forward at the end of the taxation year ending immediately before that time;
- (f) the corporation's second successor pool amounts available to be carried forward at the beginning of the taxation year commencing at that time are deemed to be nil and no royalty tax deduction claim amounts may be claimed for the taxation year commencing at that time or any future taxation year in respect of those pools.

(15) This section applies to taxation years beginning on or after the day this section comes into force.

(16) Subject to subsection (17), all pool amounts available to be carried forward expire December 31, 2013.

(17) The royalty tax deduction claim for a taxation year that begins in 2013 and ends in 2014 is that proportion of the royalty tax deduction for the year as otherwise determined that the number of days in the taxation year in 2013 bears to the number of days in the taxation year.

RSA 2000 cA-15 s20;2002 c28 s14;2003 c34 s7;
2004 c21 s3;2005 c25 s2

Special definition for s20

20.1(1) Notwithstanding section 20(1), in section 20(2) to (7), "attributed Canadian royalty income" of a corporation for a taxation year commencing in 1998, 1999, 2000 or 2001 in which it had a permanent establishment in Alberta means the amount, if any, by which the aggregate of

- (a) the amounts required to be included in computing the corporation's income for the year by virtue of paragraph 12(1)(o) of the federal Act as it applies for the purposes of this Act,
- (b) the amounts in respect of which no deduction is allowed in computing the corporation's income for the year by virtue of paragraph 18(1)(m) of the federal Act as it applies for the purposes of this Act, other than amounts described in the definition of "Canadian development expense" in subsection 66.2(5) of the federal Act or the definition of "Canadian oil and gas property expense" in subsection 66.4(5) of the federal Act,
- (c) any amounts by which the fair market value, as determined under subsection 69(8) of the federal Act, of petroleum, natural gas or related hydrocarbons or metal or minerals disposed of under dispositions referred to in subsection 69(6) of the federal Act exceeds the proceeds of disposition, if any, actually received by it in respect of the petroleum, natural gas or related hydrocarbons or metal or minerals so disposed of,
- (d) any amounts by which the amount referred to in subsection 69(7) of the federal Act in respect of acquisitions of petroleum, natural gas or related hydrocarbons or metal or minerals referred to in that subsection exceeds the fair market value, as determined under subsection 69(9) of the federal Act, of the petroleum, natural gas or related hydrocarbons or metal or minerals so acquired, and
- (d.1) any amount that would be deemed to have been payable in the year by a trust to the corporation as beneficiary of the trust under subsection 104(29) of the federal Act if the reference in that subsection to paragraph 18(1)(l.1) as it applies for the purposes of this Act were struck out,

exceeds the aggregate of

- (e) the amount allowed to the corporation for the year under section 8 in its adoption of paragraph 20(1)(v.1) of the federal Act as it applies for the purposes of this Act, and
- (f) the amount of any reimbursement received by the corporation under the terms of a contract, where the reimbursement was for an amount paid or payable by the corporation that is required to be included in computing its income or denied as a deduction in computing its income by virtue of paragraph 12(1)(o) or 18(1)(m) of the federal Act as it applies for the purposes of this Act.

(2) For taxation years commencing in 1998, 1999, 2000 or 2001, the amounts referred to in section 20(7) are the corresponding amounts referred to in subsection (1) of this section.

(3) For the purposes of this section, any reference to section 20 is a reference to section 20 as it read before the coming into force of section 7 of the *Alberta Corporate Tax Amendment Act, 2003*.

RSA 2000 cA-15 s20.1;2003 c34 s8;2006 c10 s3

Part 5

Computation of Income Tax Payable

Tax payable by corporation

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

- (a) ending before April 1, 1987 is 11% of the amount taxable in Alberta for the year,
- (b) part of which is before April 1, 1987 and part of which is after March 31, 1987 is the aggregate of
 - (i) 11% of the proportion of the amount taxable in Alberta for the year that the number of days in the year before April 1, 1987 bears to the number of days in the year, and
 - (ii) 15% of the proportion of the amount taxable in Alberta for the year that the number of days in the year after March 31, 1987 bears to the number of days in the year,
- (c) beginning after March 31, 1987 and ending before April 1, 1991 is 15% of the amount taxable in Alberta for the year,
- (d) part of which is before April 1, 1991 and part of which is after March 31, 1991 is the aggregate of
 - (i) 15% of the proportion of the amount taxable in Alberta for the year that the number of days in the year before April 1, 1991 bears to the number of days in the year, and
 - (ii) 15.5% of the proportion of the amount taxable in Alberta for the year that the number of days in the year after March 31, 1991 bears to the number of days in the year,
- (e) beginning after March 31, 1991 and ending before April 1, 2001 is 15.5% of the amount taxable in Alberta for the year,
- (f) part of which is before April 1, 2001 and part of which is after March 31, 2001, is the aggregate of
 - (i) 15.5% of the proportion of the amount taxable in Alberta for the year that the number of days in the year before April 1, 2001 bears to the number of days in the year, and
 - (ii) 13.5% of the proportion of the amount taxable in Alberta for the year that the number of days in the year after March 31, 2001 bears to the number of days in the year,
- (g) beginning after March 31, 2001 and ending before April 1, 2002 is 13.5% of the amount taxable in Alberta for the year,
- (h) part of which is before April 1, 2002 and part of which is after March 31, 2002, is the aggregate of
 - (i) 13.5% of the proportion of the amount taxable in Alberta for the year that the number of days in the year before April 1, 2002 bears to the number of days in the year, and
 - (ii) 13.0% of the proportion of the amount taxable in Alberta for the year that the number of days in the year after March 31, 2002 bears to the number of days in the year,
- (i) beginning after March 31, 2002 and ending before April 1, 2003 is 13.0% of the amount taxable in Alberta for the year,
- (j) part of which is before April 1, 2003 and part of which is after March 31, 2003, is the aggregate of
 - (i) 13.0% of the proportion of the amount taxable in Alberta for the year that the number of days in the year before April 1, 2003 bears to the number of days in the year, and
 - (ii) 12.5% of the proportion of the amount taxable in Alberta for the year that the number of days in the year after March 31, 2003 bears to the number of days in the year,

- (k) beginning after March 31, 2003 and ending before April 1, 2004 is 12.5% of the amount taxable in Alberta for the year;
- (l) part of which is before April 1, 2004 and part of which is after March 31, 2004, is the aggregate of
 - (i) 12.5% of the proportion of the amount taxable in Alberta for the year that the number of days in the year before April 1, 2004 bears to the number of days in the year, and
 - (ii) 11.5% of the proportion of the amount taxable in Alberta for the year that the number of days in the year after March 31, 2004 bears to the number of days in the year,
- (m) beginning after March 31, 2004 and ending before April 1, 2006 is 11.5% of the amount taxable in Alberta for the year,
- (n) part of which is before April 1, 2006 and part of which is after March 31, 2006, is the aggregate of
 - (i) 11.5% of the proportion of the amount taxable in Alberta for the year that the number of days before April 1, 2006 bears to the number of days in the year, and
 - (ii) 10.0% of the proportion of the amount taxable in Alberta for the year that the number of days after March 31, 2006 bears to the number of days in the year,
- (o) beginning after March 31, 2006 and ending before July 1, 2015 is 10.0% of the amount taxable in Alberta for the year,
- (p) beginning after June 30, 2015 is 12.0% of the amount taxable in Alberta for the year, or
- (q) part of which is before July 1, 2015 and part of which is after June 30, 2015, 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 July 1, 2015 bears to the number of days in the year, and
 - (ii) 12.0% of the proportion of the amount taxable in Alberta for the year that the number of days after June 30, 2015 bears to the number of days in the year.

RSA 2000 cA-15 s21;2001 c1 s13;2002 c28 s15;
2003 c34 s9;2004 c21 s4;2006 c10 s4;2015 c16 s1

Division 1

Small Business Deduction

Small business deduction

22(1) In this section,

- (a) “active business” carried on by a corporation means any business carried on by the corporation other than a specified investment business or a personal services business and includes an adventure or concern in the nature of trade;
- (b) “business limit” of a corporation for a taxation year has the meaning assigned to it by subsection 125(2) of the federal Act, as modified by subsections 125(3), (4), (5) and (5.1) of that Act and as adopted by this Act;
- (c) “Canadian-controlled private corporation” has the meaning assigned to it by subsection 125(7) of the federal Act;
- (d) “income of the corporation for the year from an active business” has the meaning assigned to it by subsection 125(7) of the federal Act;
- (e) “personal services business” carried on by a corporation in a taxation year has the meaning assigned to it by subsection 125(7) of the federal Act;
- (f) “specified investment business” carried on by a corporation in a taxation year has the meaning assigned to it by subsection 125(7) of the federal Act;

(g) “specified partnership income” of a corporation for a taxation year has the meaning assigned to it by subsection 125(7) of the federal Act except that where the fiscal period of a partnership ends after March 31, 2001, paragraph (b) of the definition of A shall be read as follows:

(b) the aggregate of the amounts determined by the formulas

(i) $\frac{K}{L} \times P,$

(ii) $\frac{K}{L} \times Q,$

(iii) $\frac{K}{L} \times R,$

(iv) $\frac{K}{L} \times S,$

(v) $\frac{K}{L} \times T,$

(vi) $\frac{K}{L} \times U,$ and

(vii) $\frac{K}{L} \times V$

where

K and L have the meaning assigned to them in the definition of specified partnership income in subsection 125(7) of the federal Act, and

P is the lesser of

(i) \$200 000, and

(ii) the product obtained when \$548 is multiplied by the total of all amounts each of which is the number of days contained in a fiscal period of the partnership ending in the year that were before April 1, 2001,

Q is the lesser of

(i) \$300 000, and

(ii) the product obtained when \$822 is multiplied by the total of all amounts each of which is the number of days contained in a fiscal period of the partnership ending in the year that were after March 31, 2001 and before April 1, 2002,

R is the lesser of

(i) \$350 000, and

(ii) the product obtained when \$959 is multiplied by the total of all amounts each of which is the number of days contained in a fiscal period of the partnership ending in the year that were after March 31, 2002 and before April 1, 2003,

S is the lesser of

(i) \$400 000, and

(ii) the product obtained when \$1096 is multiplied by the total of all amounts each of which is the number of days contained in a fiscal period of the partnership ending in the year that were after March 31, 2003 and before April 1, 2007,

T is the lesser of

- (i) \$430 000, and
- (ii) the product obtained when \$1175 is multiplied by the total of all amounts each of which is the number of days contained in a fiscal period of the partnership ending in the year that were after March 31, 2007 and before April 1, 2008,

U is the lesser of

- (i) \$460 000, and
- (ii) the product obtained when \$1261 is multiplied by the total of all amounts each of which is the number of days contained in a fiscal period of the partnership ending in the year that were after March 31, 2008 and before April 1, 2009,

and

V is the lesser of

- (i) \$500 000, and
- (ii) the product obtained when \$1370 is multiplied by the total of all amounts each of which is the number of days contained in a fiscal period of the partnership ending in the year that were after March 31, 2009;

(h) “specified partnership loss” of a corporation for a taxation year has the meaning assigned to it by subsection 125(7) of the federal Act;

(i) “specified shareholder” of a corporation in a taxation year has the meaning assigned to it by subsection 248(1) of the federal Act.

(1.1) For the purposes of this section, if an amount paid or payable to a corporation, in this subsection referred to as the “recipient corporation”, by another corporation, in this subsection referred to as the “associated corporation”, with which the recipient corporation was associated in any particular taxation year, would otherwise be included in computing the income of the recipient corporation for the particular year from a source in Canada that is a property,

- (a) the portion of the amount that was or may be deductible in computing the income of the associated corporation for any taxation year from an active business carried on by it in Canada is deemed to be income of the recipient corporation for the particular year from an active business carried on by it in Canada, and
- (b) any outlay or expense, to the extent that it may reasonably be regarded as having been made or incurred by the recipient corporation for the purpose of gaining or producing the amount determined in clause (a), is deemed to have been made or incurred by the recipient corporation for the purpose of gaining or producing that income.

(2) Subject to subsection (2.01), there may be deducted from the tax payable under section 21 for a taxation year ending before April 1, 2001 by a corporation that was, throughout the year, a Canadian-controlled private corporation, an amount equal to the product obtained when the small business allocation factor is multiplied by the applicable percentage for the taxation year of the least of

- (a) the amount, if any, by which the aggregate of
 - (i) the aggregate of all amounts each of which is the income of the corporation for the year from an active business carried on in Canada other than the income of the corporation for the year from a business carried on by it as a member of a partnership, and
 - (ii) the specified partnership income of the corporation for the yearexceeds the aggregate of
 - (iii) the aggregate of all amounts each of which is a loss of the corporation for the year from an active

business carried on in Canada other than a loss of the corporation for the year from a business carried on by it as a member of a partnership,

- (iv) the specified partnership loss of the corporation for the year, and
- (v) the corporation's royalty tax deduction for the year,
- (b) the amount, if any, by which the corporation's taxable income for the year exceeds the aggregate of
 - (i) the aggregate of the amounts determined under subparagraphs 125(1)(b)(i) and (ii) of the federal Act,
 - (i.1) that part, if any, of the amount taxable in Alberta for the year that is not subject to income tax under this Act, and
 - (ii) the corporation's royalty tax deduction for the year,

and

- (c) the corporation's business limit for the year.

(2.01) No amount may be deducted under subsection (2) for a taxation year in excess of the product obtained when the amount determined under section 19.1 is multiplied by the applicable percentage for the taxation year.

(2.1) For the purposes of subsections (2) and (2.01), the applicable percentage

- (a) for a taxation year ending before April 1, 1987 is 6%,
- (b) for a taxation year, part of which is before April 1, 1987 and part of which is after March 31, 1987 is the aggregate of
 - (i) the proportion of 6% that the number of days in the year before April 1, 1987 bears to the number of days in the year, and
 - (ii) the proportion of 10% that the number of days in the year after March 31, 1987 bears to the number of days in the year,
- (c) for a taxation year beginning after March 31, 1987 and ending before April 1, 1990 is 10%,
- (d) for a taxation year, part of which is before April 1, 1990 and part of which is after March 31, 1990 is the aggregate of
 - (i) the proportion of 10% that the number of days in the year before April 1, 1990 bears to the number of days in the year, and
 - (ii) the proportion of 9% that the number of days in the year after March 31, 1990 bears to the number of days in the year,
- (e) for a taxation year beginning after March 31, 1990 and ending before April 1, 1991 is 9%,
- (f) for a taxation year, part of which is before April 1, 1991 and part of which is after March 31, 1991 is the aggregate of
 - (i) the proportion of 9% that the number of days in the year before April 1, 1991 bears to the number of days in the year, and
 - (ii) the proportion of 9.5% that the number of days in the year after March 31, 1991 bears to the number of days in the year,

and

- (g) for a taxation year beginning after March 31, 1991 and ending before April 1, 2001 is 9.5%.

(2.11) Subject to subsection (2.13), there may be deducted from the tax payable under section 21 for a

taxation year beginning before April 1, 2001 and ending after March 31, 2001 by a corporation that was, throughout the taxation year, a Canadian-controlled 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) 9.5%;
- (c) the proportion of the least of the following amounts that the number of days in the year before April 1, 2001 bears to the number of days in the year:
 - (i) the amount determined under subsection (2)(a);
 - (ii) the amount determined under subsection (2)(b);
 - (iii) the corporation's business limit for the year.

(2.12) There may be deducted from the tax payable under section 21 for a taxation year ending after March 31, 2001 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:

- (a) the small business allocation factor for the year;
- (b) 8.5%;
- (c) the proportion of the least of the following amounts that the number of days in the year after March 31, 2001 and before April 1, 2002 bears to the number of days in the year:
 - (i) the amount determined under subsection (2)(a);
 - (ii) the amount determined under subsection (2)(b);
 - (iii) 150% of the corporation's business limit for the year.

(2.121) There may be deducted from the tax payable under section 21 for a taxation year ending after March 31, 2002 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:

- (a) the small business allocation factor for the year;
- (b) 8.5%;
- (c) the proportion of the least of the following amounts that the number of days in the year after March 31, 2002 and before January 1, 2003 bears to the number of days in the year:
 - (i) the amount determined under subsection (2)(a);
 - (ii) the amount determined under subsection (2)(b);
 - (iii) 175% of the corporation's business limit for the year.

(2.122) There may be deducted from the tax payable under section 21 for a taxation year ending after December 31, 2002 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:

- (a) the small business allocation factor for the year;
- (b) 8.5%;
- (c) the proportion of the least of the following amounts that the number of days in the year after December 31, 2002 and before April 1, 2003 bears to the number of days in the year:
 - (i) the amount determined under subsection (2)(a);
 - (ii) the amount determined under subsection (2)(b);

(iii) 155.56% of the corporation's business limit for the year.

(2.123) There may be deducted from the tax payable under section 21 for a taxation year ending after March 31, 2003 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:

- (a) the small business allocation factor for the year;
- (b) 8.5%;
- (c) the proportion of the least of the following amounts that the number of days in the year after March 31, 2003 and before January 1, 2004 bears to the number of days in the year:
 - (i) the amount determined under subsection (2)(a);
 - (ii) the amount determined under subsection (2)(b);
- (iii) 177.78% of the corporation's business limit for the year.

(2.124) There may be deducted from the tax payable under section 21 for a taxation year ending after December 31, 2003 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:

- (a) the small business allocation factor for the year;
- (b) 8.5%;
- (c) the proportion of the least of the following amounts that the number of days in the year after December 31, 2003 and before January 1, 2005 bears to the number of days in the year:
 - (i) the amount determined under subsection (2)(a);
 - (ii) the amount determined under subsection (2)(b);
- (iii) 160% of the corporation's business limit for the year.

(2.125) Repealed 2006 c10 s5.

(2.126) There may be deducted from the tax payable under section 21 for a taxation year ending after December 31, 2004 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:

- (a) the small business allocation factor for the year;
- (b) 8.5%;
- (c) the proportion of the least of the following amounts that the number of days in the year after December 31, 2004 and before April 1, 2006 bears to the number of days in the year:
 - (i) the amount determined under subsection (2)(a);
 - (ii) the amount determined under subsection (2)(b);
- (iii) 133.34% of the corporation's business limit for the year.

(2.127) There may be deducted from the tax payable under section 21 for a taxation year ending after March 31, 2006 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:

- (a) the small business allocation factor for the year;
- (b) 7.0%;
- (c) the proportion of the least of the following amounts that the number of days in the year after March 31, 2006 and before January 1, 2007 bears to the number of days in the year:

- (i) the amount determined under subsection (2)(a);
- (ii) the amount determined under subsection (2)(b);
- (iii) 133.34% of the corporation's business limit for the year.

(2.128) There may be deducted from the tax payable under section 21 for a taxation year ending after December 31, 2006 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:

- (a) the small business allocation factor for the year;
- (b) 7%;
- (c) the proportion of the least of the following amounts that the number of days in the year after December 31, 2006 and before April 1, 2007 bears to the number of days in the year:
 - (i) the amount determined under subsection (2)(a);
 - (ii) the amount determined under subsection (2)(b);
 - (iii) the corporation's business limit for the year.

(2.129) There may be deducted from the tax payable under section 21 for a taxation year ending after March 31, 2007 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:

- (a) the small business allocation factor for the year;
- (b) 7%;
- (c) the proportion of the least of the following amounts that the number of days in the year after March 31, 2007 and before April 1, 2008 bears to the number of days in the year:
 - (i) the amount determined under subsection (2)(a);
 - (ii) the amount determined under subsection (2)(b);
 - (iii) 107.5% of the corporation's business limit for the year.

(2.1291) There may be deducted from the tax payable under section 21 for a taxation year ending after March 31, 2008 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:

- (a) the small business allocation factor for the year;
- (b) 7%;
- (c) the proportion of the least of the following amounts that the number of days in the year after March 31, 2008 and before January 1, 2009 bears to the number of days in the year:
 - (i) the amount determined under subsection (2)(a);
 - (ii) the amount determined under subsection (2)(b);
 - (iii) 115% of the corporation's business limit for the year.

(2.1292) There may be deducted from the tax payable under section 21 for a taxation year ending after December 31, 2008 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:

- (a) the small business allocation factor for the year;
- (b) 7%;

- (c) the proportion of the least of the following amounts that the number of days in the year after December 31, 2008 and before April 1, 2009 bears to the number of days in the year:
 - (i) the amount determined under subsection (2)(a);
 - (ii) the amount determined under subsection (2)(b);
 - (iii) 92% of the corporation's business limit for the year.

(2.1293) There may be deducted from the tax payable under section 21 for a taxation year ending after March 31, 2009 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:

- (a) the small business allocation factor for the year;
- (b) 7%;
- (c) the proportion of the least of the following amounts that the number of days in the year after March 31, 2009 and before July 1, 2015 bears to the number of days in the year:
 - (i) the amount determined under subsection (2)(a);
 - (ii) the amount determined under subsection (2)(b);
 - (iii) the corporation's business limit for the year.

(2.1294) There may be deducted from the tax payable under section 21 for a taxation year ending after June 30, 2015 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:

- (a) the small business allocation factor for the year;
- (b) 9.0%;
- (c) the proportion of the least of the following amounts that the number of days in the year after June 30, 2015 bears to the number of days in the year:
 - (i) the amount determined under subsection (2)(a);
 - (ii) the amount determined under subsection (2)(b);
 - (iii) the corporation's business limit for the year.

(2.13) Repealed 2004 c21 s5.

(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) and (2.1294), 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.

(3) Subsections 125(3) and (4) of the federal Act apply for the purposes of this section except that

- (a) any references to the Minister are deemed to be references to the Provincial Minister,
- (b) any agreement filed with the Provincial Minister may not allocate any different amount to a corporation than the amount allocated to the corporation pursuant to the agreement filed with the Minister of National Revenue pursuant to subsection 125(3) of the federal Act,
- (c) where the corporation's business limit for the taxation year is multiplied by a percentage greater than 100% for the purposes of determining the corporation's small business deduction for the year, any agreement filed with the Provincial Minister must allocate to the corporation at least the amount allocated to the corporation pursuant to the agreement filed with the Minister of National Revenue pursuant to subsection 125(3) of the federal Act, and
- (d) where the corporation's business limit for the taxation year is multiplied by a percentage less than

100% for the purposes of determining the corporation's small business deduction for the year, any agreement filed with the Provincial Minister cannot allocate to the corporation a proportion of the business limit that is greater than the proportion that was allocated to the corporation pursuant to the agreement filed with the Minister of National Revenue pursuant to subsection 125(3) of the federal Act.

(4) Subsections 125(5), (5.1) and (6) of the federal Act apply for the purposes of this section.

RSA 2000 cA-15 s22;2001 c1 s14;2002 c28 s16;
2003 c34 s10;2004 c21 s5;2006 c10 s5;
2007 c25 s4;2010 c2 s3;2015 c16 s1

Over-integration tax payable

22.01(1) If a corporation paid eligible dividends during a taxation year and has an over-integration tax adjustment for that taxation year or for any prior taxation year, there shall be added to the tax payable for the taxation year under this Act by the corporation the amount determined under subsection (2).

(2) The over-integration tax payable for a taxation year is equal to the lesser of

(a) the amount determined by the formula

$$A \times B \times 10\%$$

where

A is the amount of eligible dividends paid in the taxation year and after 2008,

B is the rolling average allocation rate at the end of the taxation year determined in accordance with subsection (7),

and

(b) the aggregate of the over-integration tax adjustments of the corporation determined in accordance with subsection (5).

(3) If the least of the amounts referred to in section 22 for purposes of computing a corporation's small business deduction for a taxation year is greater than the amount of the corporation's business limit for that year, the over-integration tax adjustment for the taxation year is equal to 6.7% of the product obtained when the difference between the least of those amounts and the business limit for the year is multiplied by the Alberta allocation factor for the year.

(4) Notwithstanding subsection (3), the over-integration tax adjustment of a corporation for a taxation year that commences before January 1, 2009 and ends after December 31, 2008 is equal to 6.7% of the amount determined by the formula

$$(A - B) \times C/D \times E$$

where

A is the least of the amounts referred to in section 22 for purposes of computing the corporation's small business deduction for the taxation year;

B is the corporation's business limit for the taxation year;

C is the number of days in the taxation year after December 31, 2008;

D is the number of days in the taxation year;

E is the Alberta allocation factor for the taxation year.

(5) The aggregate of the over-integration tax adjustments of the corporation is the amount by which the total of the over-integration tax adjustments of the corporation for all taxation years exceeds the amounts applied to reduce or eliminate an over-integration tax adjustment for a taxation year pursuant to subsection (6).

(6) Over-integration tax adjustments for preceding taxation years shall be reduced or eliminated at the beginning of a taxation year by an amount not exceeding the amount of the over-integration tax payable for

the immediately preceding taxation year, except that an over-integration tax adjustment for a taxation year cannot be reduced or eliminated until over-integration tax adjustments for preceding taxation years have been eliminated.

(7) The rolling average allocation rate at the end of a particular taxation year is equal to the quotient obtained when the total of the Alberta allocation factors for

- (a) all taxation years ending on or before the end of the particular year and within the calendar year in which the particular year ends, and
- (b) all taxation years ending within the immediately preceding 2 calendar years

is divided by the total number of those taxation years.

(8) This section comes into force on January 1, 2009 except that

- (a) for taxation years ending in 2009, subsection (7) shall be read as “The rolling average allocation rate at the end of the taxation year is equal to the quotient obtained when the total of the Alberta allocation factors for all taxation years ending on or before the end of the year and within the calendar year is divided by the total number of those taxation years”,
- (a.1) for taxation years ending in 2009, the definition of B in subsection (4) shall be read as “B is equal to \$500 000 for the taxation year”, and
- (b) for taxation years ending in 2010, subsection (7) shall be read as “The rolling average allocation rate at the end of the taxation year is equal to the quotient obtained when the total of the Alberta allocation factors for all taxation years ending on or before the end of the particular year and within the immediately preceding calendar year is divided by the total number of those taxation years”.

2008 c29 s5;2009 c15 s4

22.1 Repealed 2001 c1 s15.

Manufacturing and processing profits deduction

22.2(1) In this section, except as otherwise provided in subsections (7) and (8),

- (a) “adjusted business income” of a corporation for a taxation year has the meaning assigned to it by section 5202 of the federal regulations;
- (b) “Alberta cost of manufacturing and processing capital” of a corporation for a taxation year means 100/85 of that portion of the cost of capital of the corporation for that year that reflects the extent to which each property included in that calculation was used directly in qualified activities of the corporation during the year, but the amount so calculated shall not exceed the cost of capital of the corporation for the year;
- (c) “Alberta cost of manufacturing and processing labour” of a corporation for a taxation year means 100/75 of that portion of the cost of labour of the corporation for that year that reflects the extent to which
 - (i) the salaries and wages included in that calculation were paid or payable to persons for the portion of their time that they were directly engaged in qualified activities of the corporation during the year, and
 - (ii) the other amounts included in that calculation were paid or payable to persons for the performance of functions that would be directly related to qualified activities of the corporation during the year if those persons were employees of the corporation,

but the amount so calculated shall not exceed the cost of labour of the corporation for the year;

- (d) “Canadian investment income” of a corporation for a taxation year has the meaning assigned to it by subsection 129(4) of the federal Act;
- (e) “cost of capital” of a corporation for a taxation year has the meaning assigned to it by section 5202 of the federal regulations;

- (f) “cost of labour” of a corporation for a taxation year has the meaning assigned to it by section 5202 of the federal regulations;
- (g) “foreign investment income” of a corporation for a taxation year has the meaning assigned to it by subsection 129(4) of the federal Act;
- (h) “manufacturing or processing” does not include
 - (i) farming or fishing,
 - (ii) logging,
 - (iii) construction,
 - (iv) operating an oil or gas well or extracting petroleum or natural gas from a natural accumulation of petroleum or natural gas,
 - (v) extracting minerals from a mineral resource,
 - (vi) processing
 - (A) ore, other than iron ore or tar sands ore, from a mineral resource located in Canada to any stage that is not beyond the prime metal stage or its equivalent,
 - (B) iron ore from a mineral resource located in Canada to any stage that is not beyond the pellet stage or its equivalent, or
 - (C) tar sands ore from a mineral resource located in Canada to any stage that is not beyond the crude oil stage or its equivalent,
 - (vii) producing industrial minerals,
- (vii.1), (viii) repealed 1998 c40 s1(8),
 - (ix) producing or processing electrical energy or steam, for sale,
 - (x) processing natural gas as part of the business of selling or distributing gas in the course of operating a public utility,
 - (x.1) processing heavy crude oil recovered from a natural reservoir in Canada to a stage that is not beyond the crude oil stage or its equivalent,
 - (x.2) Canadian field processing, or
 - (xi) any manufacturing or processing of goods for sale or lease, if, for any taxation year of a corporation in respect of which the expression is being applied, less than 10% of its gross revenue from all active businesses carried on in Canada was from
 - (A) the selling or leasing of goods manufactured or processed in Canada by it, and
 - (B) the manufacturing or processing in Canada of goods for sale or lease, other than goods for sale or lease by it;
- (i) “qualified activities” means
 - (i) any of the following activities when they are performed in Alberta in connection with manufacturing or processing, not including the activities listed in clause (h)(i) to (x), in Alberta of goods for sale or lease:
 - (A) engineering design of products and production facilities;
 - (B) receiving and storing of raw materials;
 - (C) producing, assembling and handling of goods in process;

- (D) inspecting and packaging of finished goods;
- (E) line supervision;
- (F) production support activities including security, cleaning, heating and factory maintenance;
- (G) quality and production control;
- (H) repair of production facilities;
- (I) pollution control;
- (ii) all other activities when they are performed in Alberta directly in connection with manufacturing or processing, not including the activities in clause (h)(i) to (x), in Alberta of goods for sale or lease, and
- (iii) scientific research and experimental development, as defined in section 2900 of the federal regulations, carried out in Alberta,

but does not include

- (iv) storing, shipping, selling and leasing of finished goods,
- (v) purchasing of raw materials,
- (vi) administration, including clerical and personnel activities,
- (vii) purchase and resale operations,
- (viii) data processing, or
- (ix) providing facilities for employees, including cafeterias, clinics and recreational facilities;
- (j) “salaries and wages” has the meaning assigned to it by section 5202 of the federal regulations.

(2) Subject to subsection (3), “Alberta manufacturing and processing profits” of a corporation for a taxation year means that proportion of its adjusted business income that the aggregate of its Alberta cost of manufacturing and processing capital for the year and its Alberta cost of manufacturing and processing labour for the year is of the aggregate of its cost of capital for the year and its cost of labour for the year.

(3) The “Alberta manufacturing and processing profits” of a corporation for a taxation year are deemed to be equal to the corporation’s adjusted business income for the year if

- (a) the activities of the corporation during the year were primarily manufacturing or processing in Canada of goods for sale or lease,
- (b) the aggregate of
 - (i) the aggregate of all amounts each of which is the income of the corporation for the year from an active business minus the aggregate of all amounts each of which is the loss of the corporation for the year from an active business, and
 - (ii) if the corporation is associated in the year with a Canadian corporation, the aggregate of all amounts each of which is the income of the latter corporation from an active business for its taxation year coinciding with or ending in the year,

did not exceed \$200 000,

- (c) the corporation was not engaged in any of the activities listed in subclause (1)(h)(i) to (x) at any time during the year, and
- (d) the corporation did not carry on any active business outside Canada at any time during the year.

(4) For the purposes of subsection (3)(b)(ii), if a corporation is associated in the year with a Canadian corporation that did not have a permanent establishment in Alberta in its taxation year referred to in

subsection (3)(b)(ii), the income of the latter corporation from an active business is deemed to be its income from an active business as determined under the federal Act.

(5) Subject to subsection (10), there may be deducted from the tax otherwise payable under section 21 for a taxation year by a corporation an amount equal to 1% of the lesser of

- (a) the amount, if any, by which
 - (i) the corporation's Alberta manufacturing and processing profits for the year exceed
 - (ii) the product obtained when the least of the amounts determined under section 22(2)(a) to (c) in respect of the corporation for the year is multiplied by the Alberta allocation factor,
- and
- (b) the amount, if any, by which the amount of the corporation's amount taxable in Alberta for the year exceeds the aggregate of
 - (i) the amount determined under clause (a)(ii), and
 - (ii) where the corporation was a Canadian-controlled private corporation throughout the year, the product obtained when the corporation's aggregate investment income for the year (within the meaning assigned by subsection 129(4) of the federal Act) is multiplied by the Alberta allocation factor.

(6) The amount determined under subsection (5) for a taxation year,

- (a) where the 1992 taxation year of the corporation ends after June 30, 1992, is the product obtained when 50% of the amount otherwise determined is multiplied by the proportion that the number of days in the taxation year after June 30, 1992 bears to the number of days in the taxation year,
- (b) where the corporation has a taxation year that commences before July 1, 1992 and ends after December 31, 1992, is the aggregate of the products obtained when
 - (i) 50% of the amount otherwise determined is multiplied by the proportion that the number of days in the taxation year after June 30, 1992 and before 1993 is to the number of days in the taxation year, and
 - (ii) the amount otherwise determined is multiplied by the proportion that the number of days in the taxation year in 1993 is to the number of days in the taxation year,
- and
- (c) where the corporation has a taxation year that commences after June 30, 1992 and ends in 1993, is the aggregate of the products obtained when
 - (i) 50% of the amount otherwise determined is multiplied by the proportion that the number of days in the taxation year before 1993 is to the number of days in the taxation year, and
 - (ii) the amount otherwise determined is multiplied by the proportion that the number of days in the taxation year after 1992 is to the number of days in the taxation year.

(7) Where a corporation has resource activities for a taxation year pursuant to subsection 5203(2) of the federal regulations the following applies, except as otherwise provided in subsection (8):

- (a) "adjusted business income" of the corporation for the year has the meaning assigned to it by subsection 5203(1) of the federal regulations;
- (b) "cost of capital" of the corporation for the year has the meaning assigned to it by subsection 5203(1) of the federal regulations;
- (c) "cost of labour" of the corporation for the year has the meaning assigned to it by subsection 5203(1) of

the federal regulations.

(8) Where a corporation is a member of a partnership at any time in the taxation year of the corporation, the following applies:

- (a) “cost of capital” of the corporation for the year has the meaning assigned to it by section 5204 of the federal regulations;
- (b) “cost of labour” of the corporation for the year has the meaning assigned to it by section 5204 of the federal regulations;
- (c) “Alberta cost of manufacturing and processing capital” of the corporation for the year has the meaning assigned to the words “cost of manufacturing and processing capital” by section 5204 of the federal regulations except that the reference to “qualified activities” is deemed to be a reference to “qualified activities” as defined in subsection (1)(i);
- (d) “Alberta cost of manufacturing and processing labour” of the corporation for the year has the meaning assigned to the words “cost of manufacturing and processing labour” by section 5204 of the federal regulations except that the reference to “qualified activities” is deemed to be a reference to “qualified activities” as defined in subsection (1)(i).

(9) For the purposes of subsection (1)(h)(xi), if a corporation was a member of a partnership at any time in a taxation year, paragraphs 125.1(4)(a) and (b) of the federal Act apply.

(10) Where a corporation has a taxation year beginning before April 1, 2001 and ending after March 31, 2001, the amount determined under subsection (5) for that taxation year is the proportion of the amount otherwise determined that the number of days in the taxation year before April 1, 2001 bears to the number of days in the taxation year.

(11) This section does not apply to taxation years beginning after March 31, 2001.

RSA 2000 cA-15 s22.2;2001 c1 s16

Division 2

Foreign Investment Income

Foreign investment income

23(1) For the purposes of this section, an amount referred to in subparagraph 126(1)(b)(i) of the federal Act from sources in a country other than Canada shall be referred to as “foreign investment income”.

(2) If a corporation has included foreign investment income in computing its income for a taxation year and is entitled to a deduction under subsection 126(1) of the federal Act in respect of income or profits tax paid to a country other than Canada, it may deduct from tax otherwise payable an amount equal to the least of

- (a) the Alberta allocation factor multiplied by,
 - (i) if the taxation year ends before April 1, 1987, 11% of the foreign investment income for the year from sources in that country,
 - (ii) if part of the taxation year is before April 1, 1987 and part of the taxation year is after March 31, 1987, the aggregate of
 - (A) 11% of the proportion of the foreign investment income for the year from sources in that country that the number of days in the year before April 1, 1987 bears to the number of days in the year, and
 - (B) 15% of the proportion of the foreign investment income for the year from sources in that country that the number of days in the year after March 31, 1987 bears to the number of days in the year,
 - (iii) if the taxation year begins after March 31, 1987 and ends before April 1, 1991, 15% of the foreign investment income for the year from sources in that country, or
 - (iv) if the taxation year ends after March 31, 1991, the amount determined when the foreign investment income for the year from sources in that country is multiplied by the proportion that

tax payable under section 21 for the year is of the amount taxable in Alberta for the year,

- (b) the Alberta allocation factor multiplied by the amount, if any, by which
 - (i) the non-business-income tax paid by the corporation for the year to that country, except any amount that may be regarded as having been paid in respect of income from a share of the capital stock of a foreign affiliate of the corporation,exceeds the aggregate of
 - (ii) the amount deductible under subsection 126(1) of the federal Act in respect thereof, and
 - (iii) the greater of the amount deducted under subsection 20(12) of the federal Act in determining income under the federal Act and the amount deducted under subsection 20(12) of the federal Act as adopted by this Act in determining income under this Act,and
- (c) the amount of the tax remaining after it has claimed the deductions under sections 22 and 22.2.

(2.1) For the purposes of this section, the following definitions have the meaning assigned to them in subsection 126(7) of the federal Act:

- (a) “economic profit”, “qualifying incomes”, “qualifying losses”, “related transactions”, “tax-exempt income” and “taxing country”, and
- (b) “non-business income tax”, read without reference to paragraph (c) of the definition.

(2.2) Subsections 126(4), (4.1), (4.11), (4.12), (4.13), (4.2), (4.3), (4.4), (8) and (9) of the federal Act apply for the purposes of computing a corporation’s non-business-income tax.

(3) For the purposes of this section,

- (a) the government of a country other than Canada includes the government of a state, province or other political subdivision of that country,
- (b) where a taxpayer’s income for a taxation year is in whole or in part from sources in more than one country other than Canada, subsection (2) shall be read as providing for separate deductions in respect of each of the countries other than Canada,
- (c) if any income from a source in a particular country would be tax-exempt income but for the fact that a portion of the income is subject to an income or profits tax imposed by the government of a country other than Canada, the portion is deemed to be income from a separate source in the particular country, and
- (d) if, in computing a corporation’s income for a taxation year from a business carried on by the corporation in Canada, an amount is included in respect of interest paid or payable to the corporation by a person resident in a country other than Canada, and the corporation has paid to the government of that other country a non-business-income tax for the year with respect to the amount, the amount is, in applying the definition of “qualifying incomes” in subsection (2.1) for the purpose of subsection (2), deemed to be income from a source in that other country.

(4) In applying this section and subsections 20(12) and (12.1) of the federal Act as made applicable by section 8 of this Act in respect of an authorized foreign bank,

- (a) the bank is deemed, for the purposes of this section, to be resident in Canada in respect of its Canadian banking business,
- (b) the reference in subsection 20(12) of the federal Act to a country other than Canada shall be read as a reference to a country that is neither Canada nor a country in which the taxpayer is resident at any time in the taxation year,
- (c) subsection (1) shall be read as follows:

(1) For the purposes of this section, an amount calculated under subparagraph 126(1)(b)(i) of the federal Act in respect of a corporation's Canadian banking business from sources in a country that is neither Canada nor the country in which the corporation is resident at any time in the taxation year shall be referred to as foreign investment income.

(d) subsection (2)(a)(iv) shall be read as follows:

(iv) if the taxation year ends after March 31, 1991, the amount determined when the foreign investment income for the year from sources in that country is multiplied by the proportion that tax payable under section 21 for the year is of the lesser of

(A) the corporation's taxable income earned in Canada for the year, and

(B) the total of the corporation's income for the year from its Canadian banking business and the amount determined in respect of the corporation under subparagraph 115(1)(a)(vii) of the federal Act as it applies for purposes of this Act for the year,

(e) in computing the non-business-income tax paid by the bank for a taxation year to the government of a country other than Canada, there shall be included only taxes that relate to amounts that are included in computing the bank's taxable income earned in Canada from its Canadian banking business, and

(f) the definition of tax-exempt income in subsection 126(7) of the federal Act shall be read as follows:

"tax-exempt income" means income of a corporation from a source in a particular country in respect of which

(a) the corporation is, because of a comprehensive agreement or convention for the elimination of double tax on income that has the force of law in the particular country and to which a country in which the corporation is resident is a party, entitled to an exemption from all income or profits taxes imposed in the particular country to which the agreement or convention applies, and

(b) no income or profits tax to which the agreement or convention does not apply is imposed in the particular country.

RSA 2000 cA-15 s23;2001 c1 ss17,63;2002 c28 s17;
2008 c29 s6;2014 c6 s1(11)

Division 3

Political Contributions Tax Credit

Political contributions tax credit

24(1) In this section,

(a) "registered candidate" means a person who is a registered candidate under the *Election Finances and Contributions Disclosure Act*;

(b) "registered constituency association" means a registered constituency association under the *Election Finances and Contributions Disclosure Act*;

(c) "registered party" means a political party that is a registered party under the *Election Finances and Contributions Disclosure Act*.

(2) Repealed 2015 c21 Sched. 2 s1(7).

(2.1) Subject to subsection (2.2), in respect of the aggregate amount of contributions under the *Election Finances and Contributions Disclosure Act* contributed by a corporation during the taxation year to a registered party, registered constituency association or registered candidate, that corporation may reduce the amount of tax that it would be required to pay under this Part after claiming the deductions under sections 22 and 23 by an amount equal to the aggregate of

(a) in the case of a registered party, a registered constituency association or a registered candidate who is a candidate under the *Election Act*, for contributions made on or after January 1, 2004 in respect of an election under the *Election Act*,

(i) 75% of the amount contributed if the aggregate amount of contributions by the corporation does

not exceed \$200,

- (ii) \$150 plus 50% of the amount contributed in excess of \$200 if the aggregate amount of contributions by the corporation exceeds \$200 but does not exceed \$1100, or
- (iii) if the aggregate amount of contributions by the corporation exceeds \$1100, the lesser of
 - (A) \$1000, and
 - (B) \$600 plus 33 1/3 % of the amount contributed in excess of \$1100,

and

- (b) in the case of a registered party that has nominated a candidate under the *Senatorial Selection Act* or a registered candidate who is a candidate under the *Senatorial Selection Act*, for contributions made on or after January 1, 2004 in respect of an election under the *Senatorial Selection Act*,
 - (i) 75% of the amount contributed if the aggregate amount of contributions by the corporation does not exceed \$200,
 - (ii) \$150 plus 50% of the amount contributed in excess of \$200 if the aggregate amount of contributions by the corporation exceeds \$200 but does not exceed \$1100, or
 - (iii) if the aggregate amount of contributions by the corporation exceeds \$1100, the lesser of
 - (A) \$1000, and
 - (B) \$600 plus 33 1/3 % of the amount contributed in excess of \$1100.

(2.2) The amount under subsection (2.1) by which a corporation may reduce the amount of tax that it would be required to pay may not exceed the amount of the tax payable after claiming the deductions under sections 22 and 23.

(3) If requested by the Provincial Minister, receipts signed on behalf of the registered party, registered constituency association or registered candidate, as the case may be, shall be provided to the Provincial Minister as proof of payment of each amount included in the aggregate amount of contributions in respect of which a deduction is claimed under subsection (2.1).

(4) Where a corporation was, at the end of a taxation year of a partnership, a member of the partnership, its share of any amount contributed by the partnership in that taxation year that would, if the partnership were a corporation, be an amount contributed referred to in subsection (2.1), is, for the purposes of this section, deemed to be an amount contributed by the corporation in its taxation year in which the taxation year of the partnership ended.

RSA 2000 cA-15 s24;2001 c1 s63;2002 c28 s34;
2004 c23 s98;2010 c2 s4;2013 c11 s1;2015 c21 Sched. 2 s1(7)

24.1 Repealed 2015 c21 Sched. 2 s1(8).

Division 4

Alberta Rental Investment Tax Credit

Rental investment tax credit

25(1), (2) Repealed 2002 c28 s18.

(3) A corporation may reduce the amount of tax that it would be required to pay under this Part after complying with sections 21, 22, 22.2, 23 and 24 by an amount equal to the lesser of

- (a) the amount, if any, by which the aggregate of the maximum eligible incentive for all qualifying Alberta multiple unit residential buildings of the corporation exceeds the aggregate of all tax credits allowed in a previous taxation year to the corporation under this section, and
- (b) the tax payable under this Act after claiming the deductions under sections 22, 22.2, 23 and 24.

Part 5.1 Repealed 2015 c21 Sched. 2 s1(9).

Part 6 **Refundable Tax Credits**

Division 1 **Royalty Tax Credit**

Interpretation

26(1) In this Division,

- (a) “above-limit corporation” means a corporation that
 - (i) would, if its taxation year for the purposes of computing its income under the federal Act and this Act had been the 12-month period ending August 31, 1982, have had Alberta crown royalty for that taxation year in excess of \$5 333 333,
 - (ii) was associated with one or more corporations on August 24, 1982 pursuant to subsection (1.6) and the corporation and all of the corporations with which it was associated at that time would, if the taxation year of the corporation and each of the corporations with which it was associated at that time for the purposes of computing their income under the federal Act and this Act had been the 12-month period ending August 31, 1982, have had Alberta crown royalty for that taxation year that would in aggregate exceed \$5 333 333, or
 - (iii) is deemed to be an above-limit corporation by the Provincial Minister pursuant to subsection (1.3);
- (b) “above-limit partnership” means a partnership in existence on August 24, 1982 each of the members of which, on August 24, 1982, was an above-limit corporation;
- (c) “Alberta crown royalty” means Alberta crown royalty as defined in subsection (1.01);
- (d) “Alberta resource property” means a property that is
 - (i) a right, licence or privilege to explore for, drill for or take petroleum, natural gas or petroleum and natural gas in Alberta,
 - (ii) a petroleum or natural gas well in Alberta,
 - (iii) a rental or royalty computed by reference to the amount or value of production from a petroleum or natural gas well in Alberta, or
 - (iv) a right or interest of any nature whatsoever or howsoever described in any property referred to in subclauses (i) to (iii), including a right to receive proceeds of disposition in respect of a disposition of that property;
- (d.1) “crown royalty shelter” means a corporation’s crown royalty shelter determined under section 26.1;
- (e) “exempt corporation” means a corporation that
 - (i) is an above-limit corporation, or
 - (ii) is formed at any time after August 24, 1982 on the amalgamation of 2 or more corporations, each of which was an exempt corporation immediately prior to the amalgamation;
- (e.1) “qualified royalty” means a royalty receivable by or payable to the Crown in right of Alberta
 - (i) under an agreement as defined in the *Mines and Minerals Act* granting petroleum rights, natural gas rights or petroleum and natural gas rights and, for greater certainty, a qualified royalty under

this subclause does not include any royalty under an agreement as defined in the *Mines and Minerals Act* granting rights to oil sands as defined in the *Mines and Minerals Act*, or

- (ii) pursuant to the *Oil Sands Royalty Regulation, 1984* (AR 166/84) in respect of a prescribed lease;
- (f) “restricted corporation” means a corporation described in subsection (1.12);
- (g) “restricted partnership” means a partnership described in subsection (1.13);
- (h) “restricted resource property” means
 - (i) any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta with a finished drilling date on or before August 24, 1982 where the right or interest or part thereof was owned by an above-limit corporation or an above-limit partnership on August 24, 1982, and includes a right or interest or part thereof acquired by an above-limit corporation or an above-limit partnership after August 24, 1982 pursuant to the terms of a contract, other than an option, entered into and enforceable on or before that date, but does not include any right or interest or part thereof that is disposed of by an above-limit corporation or by an above-limit partnership after August 24, 1982 pursuant to the terms of a contract, other than an option, entered into and enforceable on or before that date,
 - (ii) if subclause (i) does not apply, any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta that was disposed of after its finished drilling date and after April 7, 1986 by a restricted corporation, or
 - (iii) if subclause (i) does not apply, any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta that was disposed of after its finished drilling date and after April 7, 1986 by a restricted partnership;
- (i) “weighted average rate” means the weighted average rate determined in accordance with the regulations.

(1.01) For the purposes of this Division, “Alberta crown royalty” of a corporation for a taxation year, subject to subsection (1.1), means the aggregate of

- (a) any amount that is or is in respect of a qualified royalty (other than an amount prescribed under the federal regulations and an amount referred to in clause (b))
 - (i) that became receivable from the corporation in the year by
 - (A) the Crown in right of Alberta,
 - (B) an agent of the Crown in right of Alberta, or
 - (C) a corporation, a commission or an association that is controlled by the Crown in right of Alberta or by an agent of the Crown in right of Alberta,
- and
- (ii) that can reasonably be considered to be a royalty, tax (other than a tax or portion of a tax that can reasonably be considered to be a municipal or school tax), lease rental or bonus, however described, or to be in respect of the late receipt or non-receipt of any of those amounts, in relation to
 - (A) the acquisition, development or ownership of a Canadian resource property of the corporation, or
 - (B) the production in Canada
 - (I) of petroleum, natural gas or related hydrocarbons from a natural accumulation of petroleum or natural gas (other than a mineral resource) located in Canada, or from an

oil or gas well located in Canada, in respect of which the corporation had an interest,

- (II) of sulphur from a natural accumulation of petroleum or natural gas located in Canada, from an oil or gas well located in Canada or from a mineral resource located in Canada, in respect of which the corporation had an interest,
- (III) to any stage that is not beyond the prime metal stage or its equivalent, of metal, minerals (other than iron or petroleum or related hydrocarbons) or coal from a mineral resource located in Canada in respect of which the corporation had an interest,
- (IV) to any stage that is not beyond the pellet stage or its equivalent, of iron from a mineral resource located in Canada in respect of which the corporation had an interest, or
- (V) to any stage that is not beyond the crude oil stage or its equivalent, of petroleum or related hydrocarbons from a deposit located in Canada of bituminous sands or oil shales in respect of which the corporation had an interest,

and

- (b) any amount that is or is in respect of a qualified royalty (other than an amount prescribed in the federal regulations)
 - (i) that is paid or payable by the corporation in the year to
 - (A) the Crown in right of Alberta,
 - (B) an agent of the Crown in right of Alberta, or
 - (C) a corporation, a commission or an association that is controlled by the Crown in right of Alberta or by an agent of the Crown in right of Alberta, and
 - (ii) that can reasonably be considered to be a royalty, tax (other than a tax or portion of a tax that can reasonably be considered to be a municipal or school tax), lease rental or bonus, however described, or to be in respect of the late payment or non-payment of any of those amounts, in relation to
 - (A) the acquisition, development or ownership of a Canadian resource property, or
 - (B) the production in Canada
 - (I) of petroleum, natural gas or related hydrocarbons from a natural accumulation of petroleum or natural gas (other than a mineral resource) located in Canada or from an oil or gas well located in Canada,
 - (II) of sulphur from a natural accumulation of petroleum or natural gas located in Canada, from an oil or gas well located in Canada or from a mineral resource located in Canada,
 - (III) to any stage that is not beyond the prime metal stage or its equivalent, of metal, minerals (other than iron or petroleum or related hydrocarbons) or coal from a mineral resource located in Canada,
 - (IV) to any stage that is not beyond the pellet stage or its equivalent, of iron from a mineral resource located in Canada, or
 - (V) to any stage that is not beyond the crude oil stage or its equivalent, of petroleum or related hydrocarbons from a deposit located in Canada of bituminous sands or oil shales

less any amount that is or is in respect of a qualified royalty and that is a reimbursement, contribution or allowance received by the corporation under the terms of a contract pursuant to section 12.1(2) if the reimbursement, contribution or allowance was for an amount paid or payable by the corporation in respect of an amount referred to in clause (a) or (b).

(1.02) Except for the purposes of section 26.1(3.6), (3.7), (3.9), and (3.91), Alberta crown royalty of a corporation for taxation years commencing after 2005 shall not include any amount that, but for this subsection, would have been Alberta crown royalty of the corporation for the taxation year, where

- (a) the amount is or is in respect of a qualified royalty that is paid or payable to, or became receivable by, any of the recipients described in subsection (1.01)(a)(i)(A), (B) or (C) or (b)(i)(A), (B) or (C) after December 31, 2006,
- (b) the amount is or is in respect of a qualified royalty that is paid or payable to, or became receivable by, any of the recipients described in subsection (1.01)(a)(i)(A), (B) or (C) or (b)(i)(A), (B) or (C) on or before December 31, 2006, to the extent that the corporation is entitled to receive a reimbursement, contribution or allowance in respect of that qualified royalty under the terms of a contract pursuant to section 12.1(2), or
- (c) the amount is Alberta crown royalty of a partnership that is deemed to be Alberta crown royalty of the corporation pursuant to section 26.1(12) or (12.1) and
 - (i) is or is in respect of a qualified royalty that is paid or payable to, or became receivable by, any of the recipients described in subsection (1.01)(a)(i)(A), (B) or (C) or (b)(i)(A), (B) or (C) after December 31, 2006, or
 - (ii) is or is in respect of a qualified royalty that is paid or payable to, or became receivable by, any of the recipients described in subsection (1.01)(a)(i)(A), (B) or (C) or (b)(i)(A), (B) or (C) on or before December 31, 2006, to the extent that the partnership is entitled to receive a reimbursement, contribution or allowance in respect of that qualified royalty under the terms of a contract pursuant to section 12.1(2).

(1.1) A corporation shall not include in computing its Alberta crown royalty for a taxation year

- (a) any of the amounts described in subsection (1)(c)(i) to (iii) where those amounts are or are in respect of royalties receivable by or payable to the Crown in right of Alberta,
 - (i) after August 31, 1982 in respect of a restricted resource property described in subsection (1)(h)(i), unless the corporation is an exempt corporation, or
 - (ii) after March 31, 1986 in respect of a restricted resource property described in subsection (1)(h)(ii),or
- (b) the restricted percentage of any of the amounts described in subsection (1.01) where those amounts are or are in respect of royalties receivable by or payable to the Crown in right of Alberta after March 31, 1986 in respect of a restricted resource property described in subsection (1)(h)(iii).

(1.11) If the restricted resource property is disposed of by only one restricted partnership, the restricted percentage of the amounts referred to in subsection (1.1)(b) is the greater of

- (a) the aggregate of all percentages, each of which represents the participation in the profits of the restricted partnership of a restricted corporation that was a partner in the restricted partnership during the last fiscal period of the restricted partnership that ends prior to the date of the disposition of the restricted resource property by the restricted partnership, and
- (b) the aggregate of all percentages, each of which represents the participation in the profits of the restricted partnership of a restricted corporation that was a partner in the restricted partnership
 - (i) during the fiscal period of the restricted partnership in which the date of the disposition of the restricted resource property by the restricted partnership occurred, and
 - (ii) on or before the date of the disposition of the restricted resource property.

(1.111) If the restricted resource property is disposed of by more than one restricted partnership, the restricted percentage of the amounts referred to in subsection (1.1)(b) is the largest of the restricted percentages determined under subsection (1.11) for each of the restricted partnerships.

(1.12) A corporation is a restricted corporation at any particular time if during its last taxation year ending

before that time,

- (a) it has Alberta crown royalty in excess of \$2 000 000, or
- (b) it is associated with one or more corporations and the sum of
 - (i) its Alberta crown royalty for that taxation year, and
 - (ii) the aggregate of all amounts each of which is the Alberta crown royalty of a corporation with which it is associated for a taxation year of that corporation that ends in its taxation yearis in excess of \$2 000 000.

(1.13) A partnership is a restricted partnership at any particular time if, at any time during the period commencing 365 days prior to the particular time, one or more restricted corporations are partners in the partnership.

(1.14) For the purposes of subsection (1.12), the Alberta crown royalty of a corporation for a taxation year is an amount equal to the product of

- (a) the Alberta crown royalty of the corporation for the taxation year as otherwise determined, and
- (b) the ratio of 365 to the number of days in the taxation year.

(1.141) For the purposes of subsection (1.12), if the last taxation year of a corporation that is not a new corporation referred to in subsection (1.145) ending before the particular time, referred to in this subsection as the “actual taxation year”,

- (a) is the corporation’s first taxation year, and
- (b) consists of less than 365 days,

the last taxation year of the corporation ending before the particular time is deemed to commence 365 days prior to the first day of the taxation year immediately following the actual taxation year and to end on the last day of the actual taxation year.

(1.142) For the purposes of subsection (1.12)(b), if the last taxation year of a corporation that is not a new corporation referred to in subsection (1.141) or (1.145) ending before the particular time, referred to in this subsection as the “actual taxation year”, consists of less than 365 days, the last taxation year of the corporation ending before the particular time is deemed to commence 365 days prior to the first day of the taxation year immediately following the actual taxation year and to end on the last day of the actual taxation year.

(1.143) If a corporation is a new corporation, other than a corporation referred to in subsection (1.144), and does not have a taxation year ending before the particular time,

- (a) for the purposes of subsection (1.12)(a) and (b)(i), the corporation is deemed to have a taxation year that commences on the date the corporation commences to carry on business and ends on the date immediately prior to the particular time, and
- (b) for the purposes of subsection (1.12)(b)(ii), the corporation is deemed to have a taxation year that commences 365 days prior to the particular time and ends on the date immediately prior to the particular time.

(1.144) For the purposes of subsection (1.12), if a corporation is a new corporation formed by the amalgamation of 2 or more predecessor corporations and the new corporation does not have a taxation year ending before the particular time, the new corporation is deemed

- (a) to have a taxation year that commences 365 days prior to the particular time and ends on the date immediately prior to the particular time,
- (b) to have Alberta crown royalty in that taxation year in an amount equal to the aggregate of
 - (i) the Alberta crown royalty of each predecessor corporation for the period described in clause (a),

and

- (ii) the Alberta crown royalty of the new corporation for the period described in clause (a),

and

- (c) to be associated with a corporation that is associated with a predecessor corporation of the new corporation during the 365-day period described in clause (a).

(1.145) For the purposes of subsection (1.12), if a corporation is a new corporation formed by the amalgamation of 2 or more predecessor corporations and the last taxation year of the new corporation ending before the particular time, referred to in this subsection as the “actual taxation year”, is the corporation’s first taxation year and consists of less than 365 days,

- (a) the last taxation year of the new corporation ending before the particular time is deemed to commence 365 days prior to the first day of the taxation year immediately following the actual taxation year and to end on the last day of the actual taxation year,
- (b) the new corporation is deemed to have Alberta crown royalty in that last taxation year in an amount equal to the aggregate of
 - (i) the Alberta crown royalty of each predecessor corporation for the 365-day period described in clause (a), and
 - (ii) the Alberta crown royalty of the new corporation for the 365-day period described in clause (a),

and

- (c) the new corporation is deemed to be associated with a corporation that is associated with a predecessor corporation of the new corporation during the 365-day period described in clause (a).

(1.15) If the Provincial Minister is satisfied that

- (a) the separate existence of 2 or more corporations at any time is not solely for the purpose of carrying out the business of those corporations in the most effective manner, and
- (b) one of the main reasons for the separate existence of the corporations is to avoid one or more of those corporations’ remaining or becoming a restricted corporation,

the Provincial Minister may direct that all of the corporations are deemed to be associated with each other during a taxation year for the purposes of subsection (1.12).

(1.2) For the purposes of subsection (1)(h)(i), a right or interest or part of a right or interest is deemed not to be owned by a partnership unless there was in existence on August 24, 1982 a written agreement of partnership together with any other evidence that, in the opinion of the Provincial Minister, is sufficient to establish that the right or interest or part of the right or interest was intended by each of the members of the partnership to be owned by the partnership and not by the members.

(1.21) For the purposes of this Division, where a partnership exists, the following rules apply:

- (a) the partnership is deemed to be a separate person;
- (b) the determination of what constitutes partnership property of the partnership shall be made in accordance with the *Partnership Act*, notwithstanding that the partnership itself may be governed by the law of another jurisdiction.

(1.22) For the purposes of this Division, where at any time, any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta was disposed of to a partnership and became partnership property of the partnership, the right or interest or part thereof is deemed to have been disposed of to the partnership at that time and not to any member of the partnership.

(1.23) For the purposes of this Division, where any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta that was

partnership property of a partnership, is disposed of at any time by that partnership, the right or interest or part thereof is deemed to have been disposed of by the partnership and not by any member of the partnership.

(1.3), (1.4) Repealed 2001 c1 s18.

(1.5) Notwithstanding subsections (1)(e), (1.7), (1.8) and (1.9), if at any time control of an exempt corporation is acquired by a person, that corporation is deemed not to be an exempt corporation for the taxation year in which control is acquired and for all subsequent taxation years unless the Provincial Minister is satisfied that the result of the acquisition of control of the corporation by that person is not to increase the amount of royalty tax credit that would otherwise be determined under this Act.

(1.51) For the purposes of this Division, if at any time after April 7, 1986 control of a restricted corporation is acquired by a person and on the date of the acquisition of control the restricted corporation owns any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta, the restricted corporation is deemed to have disposed of and reacquired that right, interest or part immediately prior to the date of the acquisition of control unless the Provincial Minister is satisfied that the result of the acquisition of control of the restricted corporation by that person is not to increase the amount of royalty tax credit that would otherwise be determined under this Act.

(1.52) If at any time after April 7, 1986 control of a corporation is acquired by a person and the corporation is associated with a restricted corporation immediately prior to the date of the acquisition of control, the corporation is deemed to have been a restricted corporation immediately prior to the date of the acquisition of control.

(1.53) For the purposes of this Division, if a new corporation is formed by the amalgamation at any time after April 7, 1986 of 2 or more predecessor corporations and as a result of the amalgamation the property owned by a predecessor corporation immediately before the date of the amalgamation that consisted of any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta became the property of the new corporation, the predecessor corporation is deemed to have disposed of that right or interest and the new corporation is deemed to have acquired that right or interest on the date of the amalgamation unless the Provincial Minister is satisfied that the result of the amalgamation is not to increase the amount of royalty tax credit that would otherwise be determined under this Act.

(1.6) For the purposes of this Division, one corporation is associated with another corporation at a particular time if by reference to that particular time the corporation would have been associated with the other corporation in its taxation year in which the particular time falls pursuant to subsection (2).

(1.7) Notwithstanding subsection (1)(e) and subject to subsection (1.901), if at any time after August 24, 1982 a corporation (in this section referred to as the “purchaser”) acquires all of the Alberta resource properties of another corporation (in this subsection referred to as the “vendor”) and the vendor, but for this subsection, would have been an exempt corporation immediately before the date of acquisition, then

- (a) where the purchaser has acquired all of the Alberta resource properties of the vendor on a winding-up to which subsection 88(1) of the federal Act applies, the purchaser is deemed to be an exempt corporation as of the first day of its taxation year in which the winding-up commences, or
- (b) where clause (a) does not apply, if the vendor and each of the corporations with which it is associated on the date of acquisition jointly elect together with the purchaser in the prescribed form and within the prescribed time, then
 - (i) the purchaser is deemed to be an exempt corporation as of the first day of its taxation year in which the acquisition takes place, and
 - (ii) the vendor and each of the corporations with which it is associated on the date of acquisition are deemed not to be exempt corporations as of the first day of their taxation years in which the acquisition takes place.

(1.71) Where the election referred to in subsection (1.7)(b) is not made within the prescribed time, the election is deemed to have been made on the last day that is within the prescribed time if,

- (a) on or before the day that is 2 years after that last day, the election is made in the prescribed form, and

- (b) the penalty as assessed under subsection (1.73) is paid within 30 days after the sending of the notice of assessment.

(1.72) The penalty payable in respect of an election referred to in subsection (1.71) is \$200 for each complete month in the period commencing with the last day that is within the prescribed time and ending on the day on which the election is actually made.

(1.73) The Provincial Minister shall examine each election to which subsection (1.71) applies, assess the penalty payable and send a notice of assessment to the purchaser.

(1.8) Repealed 2001 c1 s18.

(1.9) Notwithstanding subsection (1)(e) and subject to subsection (1.901), if at any time after March 31, 1986 a new corporation is formed by the amalgamation of

- (a) a corporation and one or more of its subsidiary wholly-owned corporations, or
- (b) 2 or more corporations, each of which is a subsidiary wholly-owned corporation of the same corporation,

and one of the amalgamating corporations is an exempt corporation immediately prior to the date of the amalgamation, the new corporation is deemed to be an exempt corporation as of the first day of its first taxation year.

(1.901) A corporation is not deemed to be an exempt corporation under subsection (1.7)(b) or (1.9) if, in the opinion of the Provincial Minister, the result of deeming the corporation to be an exempt corporation is to increase the amount of royalty tax credit that would otherwise be determined under this Act.

(1.91) If at any time after April 7, 1986 a restricted corporation

- (a) amalgamates with
 - (i) one or more of its subsidiary wholly-owned corporations,
 - (ii) one or more corporations, each of which is a subsidiary wholly-owned corporation of the same corporation of which the restricted corporation is a subsidiary wholly-owned corporation, or
 - (iii) a corporation of which the restricted corporation is a subsidiary wholly-owned corporation,

or

- (b) is wound up in circumstances to which subsection 88(1) of the federal Act would apply if the reference to “taxable Canadian corporation” in that subsection were a reference to “corporation”,

and any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta is deemed to have been disposed of to the new corporation pursuant to subsection (1.53) or is disposed of as a result of the winding-up, for the purposes of subsection (1)(h)(ii) that disposition is deemed not to have occurred.

(1.92) If at any particular time after April 7, 1986 a restricted corporation disposes of any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta to a corporation that is associated with it immediately before the date of the disposition, for the purposes of subsection (1)(h)(ii),

- (a) that disposition is deemed not to have occurred, and
- (b) the corporation acquiring the right, interest or part is deemed to be a restricted corporation with respect to any disposition by it of any right or interest of any nature whatsoever or howsoever described or part thereof in any production from a petroleum or natural gas well in Alberta that takes place within 365 days after that particular time.

(1.93) If at any time a partnership disposes of all or part of a right or interest of any nature whatsoever or howsoever described in any production from a petroleum or natural gas well in Alberta to a corporation in circumstances to which subsection 98(3) of the federal Act applies, and the Provincial Minister is satisfied that

the disposition will not increase the amount of royalty tax credit that would otherwise be determined under this Act, the Provincial Minister may deem that, for the purposes of subsection (1)(h)(iii), the disposition has not occurred.

(1.94) If, before a particular petroleum or natural gas well in Alberta is spudded, 2 persons enter into an agreement in respect of the well under the terms of which

- (a) one person, in this subsection referred to as the “farmor”, disposes of a working interest in the well to another person, in this subsection referred to as the “farmee”, in consideration for the farmee’s incurring Canadian development expense, Canadian exploration expense or, if the agreement so provides, acquiring gas or oil well equipment as defined in subsection 1104(2) of the federal regulations in respect of the well,
 - (b) the farmor, at the time the farmor disposes of the working interest in the well,
 - (i) reserves a gross overriding royalty in respect of production from the well, or
 - (ii) retains a working interest, a carried interest or a net profits interest in the well,
- and
- (c) the farmor has an option to convert the royalty or interest referred to in clause (b) into a working interest in the well which, if exercised, must be exercised within a stipulated number of days, not exceeding 60, of receiving written notification from the farmee to the effect that the farmee’s cumulative net proceeds from production from the well are at least equal to its cumulative costs of drilling, equipping, completing and operating the well,

the disposition by the farmor described in clause (a) and any disposition by the farmee of a working interest in the well pursuant to the farmor’s exercise of the option described in clause (c) are deemed not to be dispositions for the purposes of subsection (1)(h).

(1.95) If, before a particular petroleum or natural gas well in Alberta is spudded, 2 persons enter into an agreement in respect of the well under the terms of which

- (a) one person, in this subsection referred to as the “farmor”, disposes of a working interest in the well to another person, in this subsection referred to as the “farmee”, in consideration for the farmee’s incurring Canadian development expense, Canadian exploration expense or, if the agreement so provides, acquiring gas or oil well equipment as defined in subsection 1104(2) of the federal regulations in respect of the well, and
- (b) the agreement provides that the disposition of the working interest will occur at rig release date,

the disposition of the working interest is deemed not to be a disposition for the purposes of subsection (1)(h).

(2) If 2 or more corporations are associated or deemed to be associated with each other under this Act, only those associated corporations that have Alberta crown royalty in the taxation year during which they are associated ending in the same calendar year are the corporations that are associated with each other for the purposes of this Division.

(3), (3.1) Repealed 1990 c4 s12.

(3.2) For the purposes of this Division, if all the shares and rights to acquire shares of the capital stock of a corporation are owned directly or indirectly by one or more registered pension funds or plans and the corporation is associated with another corporation by reason only that the other corporation is

- (a) a trustee under a trust pursuant to which the corporation is controlled, or
- (b) associated with the trustee described in paragraph (a),

the corporations are deemed not to be associated with each other in the taxation year unless,

- (c) the corporation and the other corporation are otherwise associated in the taxation year, or
- (d) at any time in the taxation year, 20% or more of the issued shares of any class of the capital stock of

each of the corporation and the other corporation is owned by one registered pension fund or plan.

(4), (5) Repealed 1990 c4 s12.

(6) Repealed 1983 c2 s4.

RSA 2000 cA-15 s26;2001 c1 s18;2002 c28 s34;2004 c21 s6;
2005 c25 s3;2006 c10 s6;2007 c25 s5;2009 c15 s5;
2015 c21 Sched. 2 s1(28)

Royalty tax credit

26.1(1) Repealed 1991 c1 s7.

(2) Subject to subsection (14), a corporation that has Alberta crown royalty in a taxation year ending before January 1, 2009 is entitled to a royalty tax credit for the year in the amount obtained when the weighted average rate for that year is multiplied by the lesser of

(a) its crown royalty shelter for the year, and

(b) its Alberta crown royalty for the year.

(3) If a corporation is not associated with one or more corporations in a taxation year, its crown royalty shelter for the taxation year is

(a) if the taxation year ends before January 1, 1995, the lesser of

(i) \$2 500 000, and

(ii) the proportion of \$2 500 000 that the number of days in the taxation year bears to 365,

and

(b) if the taxation year begins after December 31, 1994 and ends before January 1, 2007, the lesser of

(i) \$2 000 000, and

(ii) the proportion of \$2 000 000 that the number of days in the taxation year bears to 365.

(3.01) If in a taxation year of a corporation that commences in 2006 and ends in 2007 the corporation is

(a) not associated with one or more corporations, and

(b) is not a member of a partnership during the taxation year,

its crown royalty shelter for the taxation year is the proportion of \$2 000 000 that the number of days before January 1, 2007 in the taxation year bears to 365.

(3.1) Notwithstanding subsection (3), if a corporation is not associated with one or more corporations in a taxation year and part of the taxation year is before January 1, 1995 and part of it is after December 31, 1994, the crown royalty shelter of the corporation for that taxation year is the aggregate of

(a) the lesser of

(i) \$2 000 000, and

(ii) the proportion of \$2 000 000 that the number of days in the taxation year bears to 365,

and

(b) the proportion of \$500 000 that the number of days in the taxation year before January 1, 1995 bears to 365.

(3.2) Notwithstanding subsection (5), if 2 or more corporations are associated with each other in a taxation year and the taxation year of one of them begins before January 1, 1995 and ends after December 31, 1994, the aggregate of the crown royalty shelters for those corporations for the taxation year in which they are associated is the aggregate of

- (a) the lesser of
 - (i) \$2 000 000, and
 - (ii) the proportion of \$2 000 000 that the number of days in the taxation year of the corporation with the longest taxation year bears to 365,
 and
- (b) the proportion of \$500 000 that the number of days before January 1, 1995 in the taxation year of the corporation with the greatest number of days before January 1, 1995 bears to 365.

(3.3) Notwithstanding subsection (3), if in a taxation year of a corporation commencing after December 31, 1994 the corporation is not associated with one or more corporations and is a member of one or more partnerships whose fiscal periods ending in that taxation year commenced before January 1, 1995, the crown royalty shelter of the corporation for that taxation year is the aggregate of

- (a) the proportion of the lesser of
 - (i) \$2 000 000, and
 - (ii) the proportion of \$2 000 000 that the number of days in that taxation year bears to 365,
 that the difference between the Alberta crown royalty of the corporation for the year and the Alberta crown royalty deemed by subsection (12) or (12.1) to be the Alberta crown royalty for the year from all those partnerships bears to the Alberta crown royalty of the corporation for the year, and
- (b) the amount for each of those partnerships that is equal to the proportion of the aggregate of
 - (i) the lesser of
 - (A) \$2 000 000, and
 - (B) the proportion of \$2 000 000 that the number of days in the fiscal period of that partnership bears to 365,
 and
 - (ii) the proportion of \$500 000 that the number of days in the fiscal period of that partnership before January 1, 1995 bears to 365,
 that the Alberta crown royalty deemed by subsection (12) or (12.1) to be the Alberta crown royalty of the corporation for the year from that partnership bears to the Alberta crown royalty of the corporation for the year.

(3.4) Notwithstanding subsections (3) and (3.1), if in a taxation year of a corporation part of which is before January 1, 1995 and part of which is after December 31, 1994 the corporation is not associated with one or more corporations and is a member of one or more partnerships whose fiscal periods ending in that taxation year

- (a) ended in 1994 (in this subsection referred to as a “1994 partnership”), or
- (b) commenced before January 1, 1995 and ended after December 31, 1994 (in this subsection referred to as a “1995 partnership”),

the crown royalty shelter of the corporation for that taxation year is the aggregate of

- (c) the proportion of the aggregate of
 - (i) the lesser of
 - (A) \$2 000 000, and
 - (B) the proportion of \$2 000 000 that the number of days in the taxation year bears to 365,

and

- (ii) the proportion of \$500 000 that the number of days in the taxation year before January 1, 1995 bears to 365

that the difference between the Alberta crown royalty of the corporation for the year and the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty of the corporation for the year from all the 1994 partnerships and the 1995 partnerships bears to the Alberta crown royalty of the corporation for the year,

- (d) an amount for each of the 1994 partnerships that is equal to the proportion of the lesser of

- (i) \$2 500 000, and

- (ii) the proportion of \$2 500 000 that the number of days in the fiscal period of that partnership bears to 365,

that the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty of the corporation for the year from that partnership bears to the Alberta crown royalty of the corporation for the year, and

- (e) an amount for each of the 1995 partnerships that is equal to the proportion of the aggregate of

- (i) the lesser of

- (A) \$2 000 000, and

- (B) the proportion of \$2 000 000 that the number of days in the fiscal period of that partnership bears to 365,

and

- (ii) the proportion of \$500 000 that the number of days in the fiscal period of that partnership before January 1, 1995 bears to 365,

that the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty of the corporation for the year from that partnership bears to the Alberta crown royalty of the corporation for the year.

(3.5) Notwithstanding subsections (3.2) and (5), if 2 or more corporations are associated with each other in a taxation year and one or more of the corporations is a corporation to which subsection (3.3) or (3.4) would apply if it were not associated with one or more corporations in that taxation year, the aggregate of the crown royalty shelters for those corporations for the taxation year in which they are associated is the greater of

- (a) the crown royalty shelter of the corporation with the greatest crown royalty shelter for that taxation year determined pursuant to subsection (3), (3.1), (3.3) or (3.4) as if it were not associated, and

- (b) an amount that is equal to the aggregate of

- (i) the lesser of

- (A) \$2 000 000, and

- (B) the proportion of \$2 000 000 that the number of days in the taxation year of the corporation with the longest taxation year bears to 365,

and

- (ii) the proportion of \$500 000 that the number of days before January 1, 1995 in the taxation year of the corporation with the greatest number of days before January 1, 1995 bears to 365.

(3.6) If in a taxation year of a corporation that commences after December 31, 2006 the corporation is not associated with one or more corporations and is a member of one or more partnerships whose fiscal periods ending in that taxation year commenced before January 1, 2007, the crown royalty shelter of the corporation

for that taxation year is the aggregate of the amounts determined by the application of the following formula for each partnership:

$$\$2\,000\,000 \times \frac{A}{365} \times \frac{B}{C}$$

where

A is the number of days before January 1, 2007 in the partnership's fiscal period,

B is the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty of the corporation for the year from that partnership, and

C is the Alberta crown royalty of the corporation for the year.

(3.7) If in a taxation year of a corporation part of which is before January 1, 2007 and part of which is after December 31, 2006 the corporation is not associated with one or more corporations and is a member of one or more partnerships whose fiscal periods begin before January 1, 2007 and end in that taxation year, the crown royalty shelter of the corporation for that taxation year is the aggregate of the following:

(a) the amount determined by the following formula:

$$\$2\,000\,000 \times \frac{E}{365} \times \frac{D}{C}$$

where

C is the Alberta crown royalty of the corporation for the year,

D is the difference between the Alberta crown royalty of the corporation for the year and the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty of the corporation for the year from all partnerships, and

E is the number of days before January 1, 2007 in the corporation's taxation year,

(b) the aggregate of the amounts determined by the application of the following formula for each partnership:

$$\$2\,000\,000 \times \frac{A}{365} \times \frac{B}{C}$$

where

A is the number of days before January 1, 2007 in the partnership's fiscal period,

B is the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty of the corporation from the particular partnership, and

C is the Alberta crown royalty of the corporation for the year.

(3.8) If 2 or more corporations are associated with each other in taxation years ending in 2007, one or more of the corporations' taxation years ending in 2007 begin in 2006 and none of the corporations is a member of a partnership to which subsection (12) or (12.1) applies in those taxation years, the aggregate of the crown royalty shelter of the corporations for the taxation year in which they are associated is the proportion of \$2 000 000 that the number of days before January 1, 2007 in the taxation year of the corporation that has the greatest number of days before January 1, 2007 in its taxation year bears to 365.

(3.9) If 2 or more corporations are associated with each other in taxation years ending in 2007 and one or more of the corporations is a corporation to which subsection (3.6) or (3.7) would apply if it were not associated with one or more corporations in that taxation year, the aggregate of the crown royalty shelters for those corporations for the taxation year in which they are associated is the greater of

(a) the crown royalty shelter of the corporation with the greatest crown royalty shelter for that taxation year determined pursuant to subsection (3.01), (3.6) or (3.7) as if it were not associated, and

- (b) the proportion of \$2 000 000 that the number of days before January 1, 2007 in the taxation year of the corporation that has the greatest number of days before January 1, 2007 in its taxation year bears to 365.

(3.91) If 2 or more corporations are associated with each other in taxation years ending in 2008 and one or more of the corporations is a member of a partnership whose fiscal period ending in that taxation year commenced in 2006, the aggregate of the crown royalty shelter for those corporations for the taxation year in which they are associated is the greater of

- (a) the crown royalty shelter of the corporation with the greatest crown royalty shelter for the taxation year determined pursuant to subsection (3.6) as if it were not associated, and
- (b) the proportion of \$2 000 000 that the number of days before January 1, 2007 in the fiscal period of the partnership that has the greatest number of days before January 1, 2007 in its fiscal period bears to 365.

(4) Subject to subsection (4.1), if a corporation is associated with one or more corporations in a taxation year, its crown royalty shelter for the taxation year is that portion of the aggregate of the crown royalty shelters calculated under subsection (3.2), (3.5), (3.8), (3.9), (3.91), (5), (7.02) or (7.05) that is allocated to the corporation under subsection (6) or (7).

(4.1) The crown royalty shelter allocated to a corporation that is associated with one or more corporations in a taxation year ending before January 1, 2007 cannot exceed the proportion of \$2 000 000 that the number of days in the corporation's taxation year bears to 365.

(4.2) Subject to subsection (4.3), the crown royalty shelter allocated to a corporation that is associated with one or more corporations in taxation years ending in 2007 cannot exceed the proportion of \$2 000 000 that the number of days before January 1, 2007 in the corporation's taxation year bears to 365.

(4.3) If in a taxation year ending in 2007 or 2008 a corporation is associated with one or more corporations and is a member of one or more partnerships whose fiscal periods ending in the particular year commenced before January 1, 2007, the crown royalty shelter allocated to the corporation for that taxation year cannot exceed the proportion of \$2 000 000 that the greater of the number of days before January 1, 2007 in the fiscal period of the partnership that has the greatest number of days before January 1, 2007 in its fiscal period and the number of days before January 1, 2007 in the corporation's taxation year bears to 365.

(5) The aggregate of the crown royalty shelters to be allocated among 2 or more corporations that are associated with each other in a taxation year is

- (a) if the taxation year ends before January 1, 1995, the lesser of
 - (i) \$2 500 000, and
 - (ii) the proportion of \$2 500 000 that the number of days in the taxation year of the corporation with the longest taxation year bears to 365,

and

- (b) if the taxation year begins after December 31, 1994 and ends before January 1, 2007, the lesser of
 - (i) \$2 000 000, and
 - (ii) the proportion of \$2 000 000 that the number of days in the taxation year of the corporation with the longest taxation year bears to 365.

(6) If 2 or more corporations that are associated with each other file an agreement in the prescribed form with the Provincial Minister, the Provincial Minister shall allocate the aggregate of the crown royalty shelters among the corporations in accordance with the agreement if the agreement

- (a) is among all of the corporations, and
- (b) allocates the aggregate of the crown royalty shelters of the corporations calculated under subsection (3.2), (3.5), (3.8), (3.9), (3.91), (5), (7.02) or (7.05).

(7) If the corporations referred to in subsection (6) do not file an agreement in accordance with subsection (6) within 60 days after notice by the Provincial Minister that an agreement under subsection (6) for a taxation year is required for the purposes of this Act is sent to any of them, the Provincial Minister shall allocate the aggregate of the crown royalty shelters of the corporations calculated under subsection (3.2), (3.5), (3.8), (3.9), (3.91), (5), (7.02) or (7.05) to one or more of the corporations, and the crown royalty shelter of each corporation for that taxation year is the amount, if any, allocated to it.

(7.01) Notwithstanding subsection (3), if a corporation is not associated with one or more corporations in a taxation year and part of the taxation year is before January 1, 1990 and part of it is after December 31, 1989, the crown royalty shelter of the corporation for that taxation year is the aggregate of

- (a) the lesser of
 - (i) \$2 500 000, and
 - (ii) the proportion of \$2 500 000 that the number of days in the taxation year bears to 365,
- and
- (b) the proportion of \$1 500 000 that the number of days in the taxation year before January 1, 1990 bears to 365.

(7.02) Notwithstanding subsection (5), if 2 or more corporations are associated with each other in a taxation year and the taxation year of one of them begins before January 1, 1990 and ends after December 31, 1989, the aggregate of the crown royalty shelters for those corporations for the taxation year in which they are associated is the aggregate of

- (a) the lesser of
 - (i) \$2 500 000, and
 - (ii) the proportion of \$2 500 000 that the number of days in the taxation year of the corporation with the longest taxation year bears to 365,
- and
- (b) the proportion of \$1 500 000 that the number of days before January 1, 1990 in the taxation year of the corporation with the greatest number of days before January 1, 1990 bears to 365.

(7.03) Notwithstanding subsection (3), if in a taxation year of a corporation commencing after December 31, 1989 the corporation is not associated with one or more corporations and is a member of one or more partnerships whose fiscal periods ending in that taxation year commenced before January 1, 1990 and ended after December 31, 1989, the crown royalty shelter of the corporation for that taxation year is the aggregate of

- (a) the proportion of the lesser of
 - (i) \$2 500 000, and
 - (ii) the proportion of \$2 500 000 that the number of days in the taxation year bears to 365,
- that the difference between the Alberta crown royalty of the corporation for the year and the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty for the year from all those partnerships bears to the Alberta crown royalty of the corporation for the year, and
- (b) an amount for each of those partnerships that is equal to the proportion of the aggregate of
 - (i) the lesser of
 - (A) \$2 500 000, and
 - (B) the proportion of \$2 500 000 that the number of days in the fiscal period of that partnership bears to 365,
 - and

- (ii) the proportion of \$1 500 000 that the number of days in the fiscal period of that partnership before January 1, 1990 bears to 365,

that the Alberta crown royalty deemed by subsection (12) or (12.1) to be the Alberta crown royalty of the corporation for the year from that partnership bears to the Alberta crown royalty of the corporation for the year.

(7.04) Notwithstanding subsections (3) and (7.01), if in a taxation year of a corporation part of which is before January 1, 1990 and part of which is after December 31, 1989 the corporation is not associated with one or more corporations and is a member of one or more partnerships whose fiscal periods ending in that taxation year

- (a) ended in 1989, in this subsection referred to as a “1989 partnership”, or
- (b) commenced before January 1, 1990 and ended after December 31, 1989, in this subsection referred to as a “1990 partnership”,

the crown royalty shelter of the corporation for that taxation year is the aggregate of

- (c) the proportion of the aggregate of

- (i) the lesser of

- (A) \$2 500 000, and

- (B) the proportion of \$2 500 000 that the number of days in the taxation year bears to 365,

and

- (ii) the proportion of \$1 500 000 that the number of days in the taxation year before January 1, 1990 bears to 365

that the difference between the Alberta crown royalty of the corporation for the year and the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty of the corporation for the year from all the 1989 partnerships and the 1990 partnerships bears to the Alberta crown royalty of the corporation for the year,

- (d) an amount for each of the 1989 partnerships that is equal to the proportion of the lesser of

- (i) \$4 000 000, and

- (ii) the proportion of \$4 000 000 that the number of days in the fiscal period of that partnership bears to 365

that the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty of the corporation for the year from that partnership bears to the Alberta crown royalty of the corporation for the year, and

- (e) an amount for each of the 1990 partnerships that is equal to the proportion of the aggregate of

- (i) the lesser of

- (A) \$2 500 000, and

- (B) that proportion of \$2 500 000 that the number of days in the fiscal period of that partnership bears to 365,

and

- (ii) the proportion of \$1 500 000 that the number of days in the fiscal period of that partnership before January 1, 1990 bears to 365,

that the Alberta crown royalty deemed by subsection (12) or (12.1) to be Alberta crown royalty of the corporation for the year from that partnership bears to the Alberta crown royalty of the corporation for the year.

(7.05) Notwithstanding subsections (5) and (7.02), if 2 or more corporations are associated with each other in a taxation year and one or more of the corporations is a corporation to which subsection (7.03) or (7.04) would apply if it were not associated with one or more corporations in that taxation year, the aggregate of the crown royalty shelters for those corporations for the taxation year in which they are associated is the greater of

- (a) the crown royalty shelter of the corporation with the greatest crown royalty shelter for that taxation year determined pursuant to subsection (3), (7.01), (7.03) or (7.04) as if it were not associated, and
- (b) an amount that is equal to the aggregate of
 - (i) the lesser of
 - (A) \$2 500 000, and
 - (B) the proportion of \$2 500 000 that the number of days in the taxation year of the corporation with the longest taxation year bears to 365,
 - and
 - (ii) the proportion of \$1 500 000 that the number of days before January 1, 1990 in the taxation year of the corporation with the greatest number of days before January 1, 1990 bears to 365.

(7.1) Notwithstanding anything in this Division, if at any time (in this subsection referred to as the “particular time”) after November 3, 1983

- (a) control of a 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 royalty tax credit to which the particular corporation, or any corporation or group of corporations with which it is associated in the calendar year in which the particular time falls, is entitled is greater than the amount of the royalty tax credit to which the particular corporation, or any corporation or group of corporations 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 particular corporation not been acquired,

the Provincial Minister may determine the amount of the royalty tax credit to which the particular corporation or any corporation or group of corporations with which it is associated in the calendar year in which the particular time falls shall be entitled for taxation years that end in the same calendar year as that in which the particular time falls.

(7.2) Notwithstanding anything in this Division, if at any time after November 3, 1983, a 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 that 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 the royalty tax credit 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,

shall be 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) In computing the Alberta crown royalty of a corporation, no amount shall be included that would, if included, artificially increase the Alberta crown royalty of that corporation.

(9) If the Provincial Minister is satisfied that

- (a) the separate existence of 2 or more corporations in a taxation year is not solely for the purpose of carrying out the business of those corporations in the most effective manner, and
- (b) one of the main reasons for the separate existence of the corporations in that year is to increase the amount of royalty tax credit 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.

(10) If in the opinion of the Provincial Minister, 2 or more corporations have 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 aggregate amount of the royalty tax credit that may be claimed, or
- (b) artificially increase the royalty tax credit that may be claimed,

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

(11) A direction made under subsection (9) or (10)

- (a) shall not apply to a taxation year of any corporation prior to the taxation year for which the direction is made or to a taxation year commencing before January 1, 1982, and
- (b) may be revoked by the Provincial Minister and, if revoked, shall not apply to the taxation year for which the revocation occurs or to any subsequent taxation year.

(12) If a corporation, other than an exempt corporation, is a member of a partnership, its share of the amount that would be the Alberta crown royalty of that partnership, if the partnership were a corporation other than an exempt corporation, is deemed to be Alberta crown royalty of the corporation.

(12.1) If an exempt corporation is a member of a partnership, its share of the amount that would be the Alberta crown royalty of that partnership, if the partnership were an exempt corporation, is deemed to be Alberta crown royalty of the corporation.

(13) Repealed 1990 c4 s13.

(13.1) Repealed 1987 c36 s11.

(14) A corporation is entitled to a royalty tax credit in respect of the taxation year only if it files an application for the credit in the prescribed form

- (a) with its return for that taxation year, or
- (b) on a day after the return has been filed,

but in any case no later than 3 years after the end of the taxation year.

(14.1) A corporation is deemed to have paid on the day on which it files an application in accordance with subsection (14) in respect of a taxation year an amount on account of its liability under this Act for the year equal to the amount, if any, by which the royalty tax credit to which it is entitled for the year exceeds the aggregate of amounts paid by the Provincial Minister under section 26.4 for the year.

(14.2), (14.3) Repealed 1994 c33 s3.

(15), (16) Repealed 1983 c66 s6.

RSA 2000 cA-15 s26.1;2002 c28 ss19,34;2007 c25 s6;
2015 c21 Sched. 2 s1(29)

26.2 Repealed by Revision.

26.3, 26.31, 26.32 Repealed 1990 c4 s14.

Royalty tax credit instalment

26.4(1) In this section, “moving average of the specified rates” means the moving average of the specified rates determined in accordance with the regulations.

(2) Repealed 1991 c1 s9.

(3) A corporation that has reason to believe it will be entitled to a royalty tax credit for a taxation year may, in respect of each month in the year, apply to the Provincial Minister at any time before the end of the year in the prescribed form for payment of a royalty tax credit instalment.

(3.1) If there is a partial month between the end of a month and the end of a corporation’s taxation year

- (a) the corporation may apply to the Provincial Minister at any time before the end of the taxation year in the prescribed form for payment of a royalty tax credit instalment in respect of the partial month, and
- (b) the instalment for the partial month shall be computed in accordance with subsection (4) and paid in accordance with subsection (5), except that a reference to “month” in those subsections shall be read as a reference to “partial month”.

(4) A corporation’s royalty tax credit instalment for a month in a taxation year is the amount by which

- (a) the product obtained when the lesser of
 - (i) the corporation’s estimated Alberta crown royalty for the year, and
 - (ii) the corporation’s estimated crown royalty shelter for the yearis multiplied by
 - (iii) the proportion that the number of days from the beginning of the taxation year to the last day of that month bears to the number of days in the taxation year, and
 - (iv) the moving average of the specified rates determined in respect of that month, exceeds
- (b) the aggregate of the royalty tax credit instalments in respect of previous months in the taxation year paid to the corporation or applied to any liability it had under this Act.

(5) If a corporation applies for payment in respect of a month under this section, the Provincial Minister may determine the amount, if any, to be paid or applied by the Provincial Minister and, on or after the last day of the month,

- (a) pay the amount to the corporation, or
- (b) if the corporation is liable to make a payment under this Act,
 - (i) apply the amount to reduce the liability, or
 - (ii) pay part of the amount to the corporation and apply the balance of the amount to reduce the liability,

and the amount or the part of the amount applied at a particular time to reduce the liability is deemed to be a payment to the corporation that is paid by the corporation at the particular time to the Provincial Minister on account of the liability.

RSA 2000 cA-15 s26.4;2001 c1 s19;2002 c28 s34

26.41 Repealed 2013 cF-14.5 s18.

Investment Tax Credit

Rental investment tax credit

26.5(1), (2) Repealed 2002 c28 s20.

(3) A corporation that has a permanent establishment in Alberta at any time in the taxation year and has an amount invested is entitled to an extended Alberta rental investment tax credit for the taxation year in an amount equal to the aggregate of the maximum eligible incentives of the corporation that have not been used in the calculation of an extended Alberta rental investment tax credit in a previous taxation year.

(4) to (6), (6.1), (7) Repealed 2002 c28 s20.

RSA 2000 cA-15 s26.5;2002 c28 s20.

Division 3

Scientific Research and Experimental Development Tax Credit

Interpretation

26.6(1) In this Division,

- (a) “Alberta proxy amount” means the amount determined under subsection (3);
- (b) “Alberta SR&ED tax credit” means the scientific research and experimental development tax credit calculated under section 26.7(1)(a) or (1.1);
- (c) “eligible expenditures” means the amount determined under subsection (2);
- (d) “federal expenditures of the corporation” means those amounts included in the SR&ED qualified expenditure pool at the end of a taxation year of a qualified 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) “federal investment tax credit” means an amount included in the investment tax credit of a corporation for a taxation year pursuant to paragraphs (a.1) and (e) of the definition of investment tax credit in subsection 127(9) of the federal Act as it applies for federal purposes, but does not include amounts included in respect of expenditures on scientific research and experimental development carried out before January 1, 2009;
- (f) “first term shared-use-equipment” has the meaning assigned by subsection 127(9) of the federal Act;
- (g) “maximum expenditure limit” for a taxation year means the amount determined under section 26.8;
- (h) “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;
- (i) “scientific research and experimental development” has the meaning assigned by subsection 248(1) of the federal Act;
- (j) “second term shared-use-equipment” has the meaning assigned by subsection 127(9) 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 those amounts included in federal expenditures of the corporation that are in respect of

scientific research and experimental development carried out in Alberta after 2008,

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

(3.1) Notwithstanding subsection (3), for purposes of determining a corporation's eligible expenditures for a taxation year ending in 2013 or 2014, 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, the aggregate of

- (a) 65% of the proportion of the amount of salaries and wages used in the calculation of the prescribed proxy amount included in federal expenditures of the corporation for the taxation year that were paid in respect of scientific research and experimental development carried out in Alberta that the number of days in the taxation year before 2013 bears to the number of days in the taxation year,
- (b) 60% of the proportion of the amount of salaries and wages used in the calculation of the prescribed proxy amount included in federal expenditures of the corporation for the taxation year that were paid in respect of scientific research and experimental development carried out in Alberta that the number of days in the taxation year in 2013 bears to the number of days in the taxation year, and
- (c) 55% of the proportion of the amount of salaries and wages used in the calculation of the prescribed proxy amount included in federal expenditures of the corporation for the taxation year that were paid in respect of scientific research and experimental development carried out in Alberta that the number of days in the taxation year after 2013 bears to the number of days in the taxation year.

(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 or the transferor corporation for the same taxation year and was in respect of scientific research and experimental development carried out in Alberta after 2008.

2008 c29 s7;2009 c15 s6;2012 c4 s5;2013 c11 s1

Tax credit deduction

26.7(1) For taxation years ending on or before March 31, 2012,

- (a) a qualified corporation is entitled to an Alberta SR&ED tax credit in a taxation year equal to 10% of 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,

(b) if, from the tax otherwise payable under the federal Act for the immediately preceding taxation year, the corporation deducted an amount pursuant to subsection 127(5) of the federal Act, or was deemed to have deducted an amount pursuant to section 26.8(17), it must pay the portion of the amount deducted pursuant to subsection (2), or applied to any amount owing or paid to the corporation pursuant to subsection (4) for the 2009, 2010, 2011 or 2012 taxation years equal to 10% of the amount of H where H is the aggregate of the following amounts:

(i) if the amount that was deducted pursuant to subsection 127(5) of the federal Act or was deemed to have been deducted pursuant to section 26.8(17) included an amount included in the federal investment tax credit of the corporation for the immediately preceding taxation year, the amount calculated by the formula

$$(P + Q) \times Y/Z$$

where

P is the amount calculated by the formula $R \times 35\%$,

Q is the amount calculated by the formula $S \times 20\%$,

R is the lesser of T and U,

S is the lesser of V and W,

T is the lesser of

(A) the amount of eligible expenditures for the immediately preceding taxation year less the amount of the Alberta SR&ED tax credit calculated under clause (a) for that year, and

(B) the amount of the maximum expenditure limit for the immediately preceding taxation year less the amount of the Alberta SR&ED tax credit calculated under clause (a) for that year,

U is the product of the expenditure limit of the corporation as calculated under subsection 127(10.2) of the federal Act or allocated to the corporation in accordance with subsection 127(10.3) of the federal Act for the immediately preceding taxation year and the ratio of eligible expenditures for that year less the Alberta SR&ED tax credit for that year calculated under clause (a) to federal expenditures of the corporation for that year,

V is the greater of

(A) the amount of eligible expenditures for the immediately preceding taxation year less

(I) the amount of the Alberta SR&ED tax credit calculated under clause (a) for that year, and

(II) U,

and

(B) zero,

W is the greater of

(A) the amount of the maximum expenditure limit for the immediately preceding taxation year less

(I) the amount of the Alberta SR&ED tax credit calculated under clause (a) for that year, and

(II) U,

and

(B) zero,

Y is the amount of federal investment tax credits for the immediately preceding taxation year that was included in an amount that, from the tax otherwise payable under the federal Act for that year, was deducted by the corporation pursuant to subsection 127(5) of the federal Act or was deemed to have been deducted pursuant to section 26.8(17), and

Z is the aggregate of the federal investment tax credits for the immediately preceding taxation year and amounts included in investment tax credits for that year pursuant to paragraphs (e.1) and (e.2) of the definition of investment tax credit in subsection 127(9) of the federal Act, and

(ii) the aggregate of amounts calculated under subsection (1.2)(a),

and

(c) for purposes of subsections (2) to (5), if the amount calculated under clause (a) is greater than the amount calculated under clause (b), the Alberta SR&ED tax credit for the year is deemed to be reduced by the amount calculated under clause (b).

(1.1) For taxation years ending after March 31, 2012, a qualified corporation is entitled to an Alberta SR&ED tax credit in a taxation year equal to 10% of the lesser of

(a) the corporation's eligible expenditures for the taxation year, and

(b) the corporation's maximum expenditure limit for the taxation year.

(1.2) For purposes of subsection (1)(b)(ii), where

(a) an amount deducted by the corporation from the tax otherwise payable under the federal Act for the immediately preceding taxation year pursuant to subsection 127(5) of the federal Act included an amount included in the federal investment tax credit of the corporation for an earlier taxation year (in this subsection referred to as the "particular year") that can reasonably be considered to relate to an amount referred to in the definition of A in section 26.6(2) for the particular year, or

(b) the corporation was deemed to have deducted an amount from the tax otherwise payable under the federal Act for the immediately preceding taxation year pursuant to section 26.8(17) that included an amount included in the federal investment tax credit of the corporation for the particular year,

a separate calculation using the formula in subsection (1)(b)(i) shall be made for each particular year in which an amount that included an amount included in the federal investment tax credit of the corporation for the particular year was, from the tax otherwise payable under the federal Act by the corporation for the immediately preceding taxation year, deducted by the corporation pursuant to subsection 127(5) of the federal Act or deemed to have been deducted pursuant to section 26.8(17), and for each calculation

(c) other than the amount of Y, a reference to the amount or value of eligible expenditures, Alberta SR&ED tax credit, maximum expenditure limit, expenditure limit as determined under subsection 127(10.2) or (10.3) of the federal Act, federal investment tax credit and an amount included in the investment tax credit for that year pursuant to paragraphs (e.1) and (e.2) of the definition of investment tax credit in subsection 127(9) of the federal Act is a reference to that amount or value for the particular year, and

(d) Y is the amount of the federal investment tax credit of the corporation for the particular year that was included in an amount that was, from tax otherwise payable under the federal Act for the immediately preceding taxation year, deducted by the corporation pursuant to subsection 127(5) of the federal Act or deemed to have been deducted pursuant to section 26.8(17).

(1.3) For the purposes of subsections (1) and (1.2), if an amount included in the federal investment tax credit of a corporation for a taxation year (in this subsection referred to as the "originating year") is included in an amount that was, from the tax otherwise payable under the federal Act for a preceding taxation year, deducted by the corporation pursuant to subsection 127(5) of the federal Act or deemed to have been deducted pursuant to section 26.8(17), for the purposes of calculating the amount of H in this section, any such amount is deemed to have been deducted from the tax otherwise payable for the originating 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 Alberta SR&ED tax credit 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 Alberta SR&ED tax credit 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) The amount by which a qualified corporation's Alberta SR&ED tax credit for the year exceeds the amount referred to in subsection (2)(b) is deemed to have been paid by the corporation on the later of the balance-due day for the year and the day on which the corporation's claim for the Alberta SR&ED tax credit was received by the Provincial Minister.

(6) No amount shall be included in determining the Alberta SR&ED tax credit 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.

2008 c29 s7;2009 c15 s7;2012 c4 s6

Recapture of Alberta SR&ED credit

26.71(1) A corporation that, in a taxation year ending on or before March 31, 2012, from the tax otherwise payable for the immediately preceding taxation year under the federal Act, deducted an amount pursuant to subsection 127(5) of the federal Act or was deemed to have deducted an amount pursuant to section 26.8(17) must

- (a) calculate an amount under section 26.7(1)(b) for the taxation year, and
- (b) file on or before the prescribed time and in the prescribed form the results of that calculation

if the amount deducted pursuant to subsection 127(5) of the federal Act or deemed to have been deducted pursuant to section 26.8(17) included an amount that was in respect of federal expenditures of the corporation that could reasonably be considered to have been included in calculating the corporation's Alberta SR&ED tax credit for any taxation year.

(2) The amount by which the amount calculated under section 26.7(1)(b) exceeds the amount calculated under section 26.7(1)(a) is deemed to be an amount owing by the corporation to the Crown in right of Alberta, which is payable to the Provincial Minister on or before the corporation's balance-due day for the taxation year.

2009 c15 s8;2012 c4 s7

Maximum expenditure limit

26.8(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, 2009 and ends after December 31, 2008, 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 2009 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, 2009 and ends after December 31, 2008 cannot exceed the proportion of \$4 000 000 that the number of days in the taxation year in 2009 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, 2009 and ends after December 31, 2008, 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, 2008 in the taxation year of the corporation that has the greatest number of days after December 31, 2008 in its 2009 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) shall be read as a reference 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.

(11) If 2 or more corporations are associated or deemed to be associated with each other under this Act, only those associated corporations that are claiming an Alberta SR&ED tax credit in the taxation year during which they are associated ending in the same calendar year are the corporations that are associated with each other for the purposes of this Division.

(12) 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 Alberta SR&ED tax credit 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.

(13) 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 Alberta SR&ED tax credit to which it or any qualified corporation is otherwise entitled, or

- (b) artificially increase the Alberta SR&ED tax credit 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.

(14) A direction made under subsection (12) or (13)

- (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.

(15) Notwithstanding anything in this Division, if at any time (in this subsection referred to as the “particular time”) after December 31, 2008

- (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 Alberta SR&ED tax credit to which the particular corporation, or any corporation or group of corporations with which it is associated in the calendar year in which the particular time falls, is entitled is greater than the amount of the Alberta SR&ED tax credit to which the particular corporation, or any corporation or group of corporations 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 Alberta SR&ED tax credit to which the particular corporation or any corporation or group of corporations 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.

(16) Notwithstanding anything in this Division, if at any time after December 31, 2008, 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 Alberta SR&ED tax credit 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.

(17) For purposes of determining the amounts under section 26.7(1) or (1.2) for any taxation year,

- (a) where at the end of the year, the corporation
 - (i) had taxes payable for the year or had paid taxes for any of the 3 immediately preceding taxation years under the federal Act, and
 - (ii) had an amount that could have been deducted from those taxes payable pursuant to subsection 127(5) of the federal Act

the corporation is deemed to have deducted that amount to reduce taxes payable under the federal Act for the year or to have obtained a refund of the taxes paid under the federal Act for any of the 3 immediately preceding taxation years to the fullest extent possible starting with the earliest taxation year in which the amount could first have been deducted, and

- (b) where, in the opinion of the Provincial Minister, the corporation has deducted an amount in computing income or loss for a taxation year (in this clause referred to as the “particular year”) under the federal Act rather than deducting an amount that it could have deducted pursuant to subsection 127(5) of the federal Act from the taxes that would otherwise have been payable under the federal Act for the particular year, and one of the main reasons for doing so was to reduce the amount of Y referred to in section 26.7(1) or (1.2) for purposes of calculating the amount of H under section 26.7(1)(b) in a subsequent year, the corporation is deemed to have deducted the amount from the tax that would otherwise have been payable under the federal Act for the particular year had the corporation computed its income or loss for that year without making that deduction.

2008 c29 s7;2012 c4 s8

Recapture

26.9(1) 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 of the corporation 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 Alberta SR&ED tax credit, or that would have been received by the corporation if the SR&ED qualified expenditure pool referred to in the definition of federal expenditures of the corporation 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 26.91(4) and 10% 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,
- (A) the proceeds of disposition of the property if the property
- (I) is the particular property and is neither first term shared-use-equipment nor second term shared-use-equipment, or
- (II) is the other property,
- (B) 25% of the proceeds of disposition of the property if the property is the particular property, is first term shared-use-equipment and is not second term shared-use-equipment, and
- (C) 50% of the proceeds of disposition of the property if the property is the particular property and is second term shared-use-equipment,

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,
 - (A) the fair market value of the property at the time of its conversion or disposition if the property
 - (I) is the particular property and is neither first term shared-use-equipment nor second term shared-use-equipment, or
 - (II) is the other property,
 - (B) 25% of the fair market value of the property at the time of its conversion or disposition if the particular property is first term shared-use-equipment and is not second term shared-use-equipment, and
 - (C) 50% of the fair market value of the property at the time of its conversion or disposition if the particular property is second term shared-use-equipment.

(2) Where

- (a) a corporation acquired a particular property from a person or partnership in a taxation year or in any of the 20 preceding taxation years,
- (b) 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 Alberta SR&ED tax credit 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 26.91(4) as it applies to the transferee and the amount determined by the formula

$$10\% \times C - D$$

where

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 (1) in respect of the particular property.

(3) Where, at any particular time in a taxation year, a purchaser is a corporation that converts to commercial use, or disposes of without having previously converted to commercial use, a property

- (a) that was acquired by the purchaser in circumstances described in section 26.91(2) or that is another property that incorporates a property acquired in such circumstances, and
- (b) that was first acquired, or that incorporates a property that was first acquired, by a corporation (in this subsection referred to as the "original user") with which the purchaser did not deal at arm's length at the time at which the purchaser acquired the property, in the original user's taxation year that

includes the particular time (on the assumption that the original user had such a taxation year) or in any of the original user's 20 preceding taxation years,

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

- (c) the amount that can reasonably be considered to have been received by the original user as an Alberta SR&ED tax credit in respect of the property, and
- (d) the product of the ratio of the original user'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 original user for that year and 10% of
 - (i) if the property or the other property is disposed of to a person who deals at arm's length with the purchaser, the proceeds of disposition of that property, and
 - (ii) in any other case, the fair market value of the property or the other property at the time of the conversion or disposition.

2008 c29 s7;2009 c15 s9

General provisions

26.91(1) Where at any time a particular property, or a property that incorporates the particular property, ceases to be located in Alberta, the particular property or the property that incorporates the particular property is, for purposes of section 26.9, 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) Section 26.9 does not apply to a corporation (in this subsection referred to as the "transferor") that disposes of a property to a qualified corporation (in this subsection and section 26.9(3) referred to as the "purchaser") that does not deal at arm's length with the transferor, if the purchaser acquired the property in circumstances

- (a) whereby the property did not cease to be located in Alberta, and
- (b) where the cost of the property to the purchaser would have been an expenditure of the purchaser described in subclause 37(8)(a)(ii)(A)(III) or (B)(III) of the federal Act as it applies for the purposes of this Act but for subparagraph 2902(b)(iii) of the federal regulations.

(3) For the purpose of applying section 26.9(1) or (2) in respect of a corporation, or section 26.9(3) in respect of a purchaser and an original user, as the case may be (which corporation, purchaser or original user is, in this subsection, referred to as the "taxpayer"), 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 taxpayer that end after 2008.

(4) For the purposes of section 26.9, the amount that can reasonably be considered to have been included in a corporation's Alberta SR&ED tax credit in respect of a particular property is equal to the amount determined by the formula

$$10\% \times A \times B$$

where

- 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.

(5) For the purposes of subsection (4), 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 (4) in respect of each taxation year, and the amount that can reasonably be considered to have been included in its Alberta SR&ED tax credit is the aggregate of the amounts so calculated for each of the taxation

Division 4

Alberta QET Tax Credit

Alberta QET tax credit

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

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

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

where

- A is the tax payable under section 6.2 of the *Alberta Personal Income Tax Act* by a qualifying environmental trust for the taxation year of the trust that ends in the particular year,
- B is the amount determined for federal purposes pursuant to the definition of B in paragraph 127.41(1)(a) of the federal Act with respect to the corporation for the particular year, and
- C is the amount determined for federal purposes pursuant to the definition of C in paragraph 127.41(1)(a) of the federal Act,

and

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

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

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

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

2014 c6 s1(16);2015 c21 Sched. 2 s1(11)

Part 7

Special Rules Applicable in Certain Circumstances

Bankrupt corporations

27 If a corporation has become bankrupt as defined in subsection 128(3) of the federal Act, the rules provided in section 128 of that Act apply for the purposes of this Act, except that paragraph 128(1)(f) of the federal Act does not apply for the purposes of Part 6, Division 1 of this Act.

RSA 1980 cA-17 s27;1981 c8 s10;1983 c2 s7

Changes in residence

27.1 Sections 128.1 and 128.2 of the federal Act apply for the purposes of this Act.

1995 c3 s8

Investment corporations

28(1) If a corporation is throughout a taxation year an investment corporation, other than a corporation that was a mutual fund corporation throughout the year, subsections 131(1) and (2) of the federal Act, as made applicable by section 30 of this Act, apply as if

- (a) the corporation had been a mutual fund corporation throughout that and all previous taxation years ending after 1971 throughout which it was an investment corporation, and
- (b) its capital gains redemption for that and all previous taxation years ending after 1971, throughout which it would but for the assumption made by clause (a) not have been a mutual fund corporation, were nil.

(2) Section 30 applies to a corporation to which this section applies.

RSA 2000 cA-15 s28;2001 c1 s21

Mortgage investment corporations

29 If a corporation was throughout a taxation year a mortgage investment corporation as defined in subsection 130.1(6) of the federal Act, the rules provided in section 130.1 of that Act apply for the purposes of this Act insofar as those rules apply to corporations.

RSA 1980 cA-17 s29

Mutual fund corporations

30(1) Subject to subsections (1.1) to (7), if a corporation is a mutual fund corporation, section 131 of the federal Act applies for the purposes of this Act.

(1.1) Subsection 131(2) of the federal Act applies only for the purpose of determining the amount of capital gains refund of a corporation for a taxation year.

(2) Repealed 2001 c1 s22.

(2.01) In the application of subparagraph 131(2)(a)(i) of the federal Act for the purposes of this Act,

- (a) in respect of a taxation year ending after March 31, 1991 and before February 28, 2000, a reference to any percentage in subparagraph 131(2)(a)(i) of the federal Act shall be read as a reference to $\frac{3}{4}$ of the proportion that tax payable under section 21 of this Act for the year is of the amount taxable in Alberta for the year, and
- (b) in respect of a taxation year ending after July 12, 1996, a reference to any percentage in subparagraph 131(2)(a)(i) of the federal Act shall be read as a reference to $\frac{1}{2}$ of the proportion that tax payable under section 21 of this Act for the year is of the amount taxable in Alberta for the year.

(2.1), (3) Repealed 1987 c36 s20.

(4), (4.1) Repealed 2001 c1 s22.

(4.2) In the application of the definitions of capital gains dividend account and capital gains redemptions in subsection 131(6) of the federal Act for the purposes of this Act in respect of a taxation year ending after December 31, 1991,

- (a) a reference to 100/21 shall be read as a reference to the fraction obtained when 1 is divided by $\frac{3}{4}$ of the proportion that tax payable under section 21 of this Act for the taxation year is of the amount taxable in Alberta for the year,
- (b) a reference to 100/18.7 shall be read as a reference to the fraction obtained when 1 is divided by $\frac{2}{3}$ of the proportion that tax payable under section 21 of this Act for the taxation year is of the amount taxable in Alberta for the year, and
- (c) a reference to 100/14 shall be read as a reference to the fraction obtained when 1 is divided by $\frac{1}{2}$ of the proportion that tax payable under section 21 of this Act for the taxation year is of the amount taxable in Alberta for the year.

(5) Repealed 2001 c1 s22.

(5.1) In the application of the definition of “refundable capital gains tax on hand” in subsection 131(6) of the federal Act for the purposes of this Act,

(a), (b) repealed 2001 c1 s22,

(c) in respect of a taxation year ending after November 30, 1991,

- (i) the reference to the percentage in clauses (a) and (b) in A of the definition shall be read as a reference to the proportion that tax payable under section 21 for the year is of the amount taxable in Alberta for the year, and
- (ii) clause (c) in A of the definition shall be read as if “this Part for the year determined without reference to section 123.2” were struck out and “this Act for the year” were substituted.

(6) If a corporation had a permanent establishment in a jurisdiction outside Alberta during a taxation year in respect of which this section applies, the capital gains refund under this section shall be the capital gains refund otherwise determined under this section multiplied by the Alberta allocation factor, except that this subsection does not apply to the capital gains refund referred to in subparagraph (b)(iii) of the definition of “capital gains dividend account” or the description of B in the definition of “refundable capital gains tax on hand” in subsection 131(6) of the federal Act, as made applicable by this section.

(7) Subsections 131(1.3), (1.4), (3), (3.1), (3.2), (5) and (9) and paragraph 131(1.1)(b) of the federal Act do not apply for the purposes of this Act.

(8) If a corporation has filed a return under section 36 for the taxation year within 3 years from the end of the taxation year, the corporation is entitled to and is deemed to have paid on account of its liability under this Act for the taxation year an amount equal to its capital gains refund for the year on the day on which it makes an application in writing containing a calculation of its capital gains refund if, under circumstances in which section 43(1)(d)(ii) or (iii) or (1.2) applies, the day is within the periods referred to in section 43(1)(d)(ii) or (iii) or (1.2), as the case may be.

RSA 2000 cA-15 s30;2001 c1 s22;2002 c28 s21

Amounts designated by mutual fund trust

30.01 When a corporation is or becomes a beneficiary under a mutual fund trust, subsections 132(5.1) and (5.2) and sections 132.1 and 132.11 of the federal Act apply for the purposes of determining the income of the corporation under this Act.

RSA 2000 cA-15 s30.01;2001 c1 s23;2006 c10 s7

Mutual funds - qualifying exchange

30.1 Section 132.2 of the federal Act applies for the purposes of this Act.

1996 c4 s11

Communal organizations

30.2 Section 143 of the federal Act applies for the purposes of this Act.

2006 c10 s8

Patronage

31(1) Subject to subsection (2), the provisions of section 135 of the federal Act with respect to the deduction from income of payments made pursuant to allocations in proportion to patronage and the inclusion in income of payments received pursuant to allocations in proportion to patronage are, insofar as they apply to corporations, applicable in computing income for the purposes of this Act.

(2) Subsection 135(3) of the federal Act does not apply for the purposes of this Act.

RSA 1980 cA-17 s31

Agricultural cooperatives

31.1(1) Section 135.1 of the federal Act, except subsection (7), applies for the purposes of this Act.

(2) This section applies after 2005 except that paragraph 135.1(4)(b) of the federal Act as it applies for the purposes of this Act does not apply to any indebtedness entered into before 2006.

2007 c25 s7

Credit unions

32(1) Subject to subsections (2) and (3), section 137 of the federal Act applies for the purposes of this Act insofar as it applies to corporations.

(2) Subsections 137(3) and (4) of the federal Act do not apply for the purposes of this Act.

(3) Repealed 1986 c1 s15.

RSA 1980 cA-17 s32;1983 c66 s8;1985 c1 s11;1986 c1 s15;
1996 c4 s12

Deposit insurance corporations

33 Section 137.1 of the federal Act, except subsection (9), applies in computing the income of deposit insurance corporations and member institutions for the purposes of this Act.

RSA 1980 cA-17 s33

Insurance corporations

34(1) Subject to subsections (1.1) to (3), the rules provided in sections 138, 138.1, 140 and 141.1 of the federal Act apply in computing the taxable income of insurance corporations for the purposes of this Act.

(1.1) Where a corporation has deducted an amount pursuant to paragraph 138(3)(a) of the federal Act in computing its income or loss for a taxation year for the purposes of the federal Act, the corporation must deduct the same amount for the year for the purposes of this Act pursuant to that provision as made applicable by this Act.

(1.2) If, in computing its income or loss for its last taxation year ending before the coming into force of subsection (1.1) (in this subsection referred to as the “particular year”), a corporation deducted an amount pursuant to paragraph 138(3)(a) of the federal Act as it applied for the purposes of this Act that was higher than the amount deducted pursuant to paragraph 138(3)(a) of the federal Act in computing its income or loss for the purposes of the federal Act for the particular year,

- (a) in computing its income or loss for the immediately following taxation year, the amount that shall be included by virtue of paragraph 138(4)(a) of the federal Act as it applies for the purposes of this Act is the amount deducted by the corporation pursuant to paragraph 138(3)(a) of the federal Act in computing its income or loss for the purposes of the federal Act for the particular year, and
- (b) in computing its income or loss for the immediately following taxation year and for each of the 4 taxation years following that year, the corporation shall include an amount in income equal to 1/5 of the difference between the amount deducted pursuant to paragraph 138(3)(a) of the federal Act in the computation of income or loss for the purposes of the federal Act for the particular year and the amount deducted pursuant to paragraph 138(3)(a) of the federal Act as it applied for the purposes of this Act in the computation of income or loss for the purposes of this Act for the particular year.

(2) Repealed 1998 c40 s1(10).

(3) The rules provided in section 139 of the federal Act with respect to the conversion of provincially incorporated life insurance corporations into a mutual corporation apply for the purposes of this Act.

(4) Sections 139.1, 139.2 and 141 of the federal Act apply for the purposes of this Act.

(5) Sections 139.1 and 139.2 of the federal Act apply to transactions that occur after December 15, 1998.

(6) Section 141 of the federal Act, as re-enacted by section 40 of chapter 19, Statutes of Canada 2000, applies after December 15, 1998.

RSA 2000 cA-15 s34;2001 c1 s24;2012 c4 s9

Financial institutions

34.01 Sections 142.2 to 142.6 of the federal Act apply for the purposes of this Act.

1996 c4 s14

Conversion of foreign bank affiliate to branch

34.011(1) Subject to subsection (2), section 142.7 of the federal Act applies for the purposes of this Act.

(2) If a corporation is

- (a) a Canadian affiliate,
- (b) an entrant bank,
- (c) a corporation that is affiliated with a Canadian affiliate, or
- (d) a corporation with whom an entrant bank does not deal at arm's length,

within the meaning of section 142.7 of the federal Act and has filed a valid election under the federal Act applicable to make the particular provisions of section 142.7 operative in the determination of its taxable

income under the federal Act, and all other conditions that section 142.7 requires have been complied with, the corporation shall, in the determination of its taxable income under this Act, be required to use the same cost, value, tax basis, dividend, non-capital loss or net capital loss or other amount that was used in the determination of its taxable income under the federal Act.

2002 c28 s22

Cost of tax shelter investments

34.02(1) Subject to subsections (2), (3), (4) and (5), section 143.2, except subsection (15), and subsection 237.1(1) of the federal Act apply in computing the income of a corporation under this Act.

(2) Where the Minister of National Revenue has initiated a federal assessment action for a taxation year of a corporation applying subsection 143.2(13) of the federal Act, the amount deemed to be a limited-recourse amount in relation to an expenditure pursuant to subsection 143.2(13) of the federal Act is deemed to be the limited-recourse amount relating to the expenditure under this Act.

(3) Where the Minister of National Revenue has initiated a federal assessment action for a taxation year of a corporation applying subsection 143.2(14) of the federal Act, the corporation and such other taxpayers as the Minister of National Revenue has determined are not dealing at arm's length for the purposes of section 143.2 of the federal Act are deemed not to be dealing with each other at arm's length for the purposes of this section.

(4) No amount may be deducted or claimed by a corporation for the purposes of this Act in respect of a tax shelter unless the corporation has filed with the Minister of National Revenue the prescribed form containing prescribed information, including the identification number for the tax shelter, pursuant to the requirements of section 237.1 of the federal Act.

(5) No amount may be deducted or claimed by a corporation for the purposes of this Act for any taxation year in respect of a tax shelter of the corporation if the corporation is liable to a penalty under subsection 237.1(7.4) or 162(9) of the federal Act in respect of the tax shelter or interest on the penalty and

(a) the penalty or interest has not been paid, or

(b) the penalty and interest have been paid, but an amount on account of the penalty or interest has been repaid under subsection 164(1.1) of the federal Act or applied under subsection 164(2) of the federal Act.

(6) Subject to subsections (7) to (11), subsections (1) to (3) apply to property acquired and to outlays and expenses made or incurred by a taxpayer after November 1994.

(7) Subsections (1) to (3) do not apply where

(a) the property was acquired, or the outlay or expense was made or incurred, before 1995 pursuant to an agreement in writing made by the taxpayer before December 1994, or

(b) the property is

(i) a film production prescribed for the purpose of subparagraph 96(2.2)(d)(ii) of the federal Act, as it applies for the purposes of this Act, where

(A) the principal photography of the production began before 1995 or, in the case of a production that is a television series, one episode of the series began before 1995, and

(B) the principal photography of the production was completed before March 2, 1995,

or

(ii) an interest in a partnership (all or substantially all of the property of which is a film production referred to in subclause (i)) acquired before 1995 by a taxpayer that is a partnership,

and the following conditions are met:

(c) in the case of an interest that is a tax shelter for which section 237.1 of the federal Act requires an identification number to be obtained from the Minister of National Revenue under the federal Act, the identification number was obtained before December 1994;

- (d) there is no agreement or other arrangement under which the taxpayer's obligations with respect to the interest can be changed, reduced or waived if there is a change to this Act or the federal Act or if there is an adverse assessment under this Act or the federal Act.
- (8)** Subsections (1) to (3) do not apply to revenue guarantees prescribed for the purpose of subparagraph 96(2.2)(d)(ii) of the federal Act, as it applies for the purposes of this Act, that were granted before 1996.
- (9)** Subparagraph 143.2(6)(b)(ii) of the federal Act as it applies for the purposes of this Act does not apply
- (a) to property acquired, or outlays or expenses made or incurred, by a taxpayer before April 27, 1995, or
 - (b) to property acquired, or outlays or expenses made or incurred, by a taxpayer before 1996 pursuant to a particular agreement in writing made by the taxpayer before April 27, 1995 where the following conditions are met:
 - (i) in the case of a property that is a tax shelter for which section 237.1 of the federal Act requires an identification number to be obtained from the Minister of National Revenue under the federal Act, the identification number was obtained before April 27, 1995, and
 - (ii) there is no agreement or other arrangement under which the taxpayer's obligations under the particular agreement can be changed, reduced or waived if there is a change to this Act or the federal Act or if there is an adverse assessment under this Act or the federal Act.
- (10)** Paragraph 143.2(7)(a) of the federal Act, as it applies for the purposes of this Act, is to be read without reference to "not exceeding 10 years" where
- (a) the indebtedness arises
 - (i) pursuant to the terms of an agreement in writing made by the taxpayer before April 27, 1995,
 - (ii) before 1996, in respect of the acquisition of a film production prescribed for the purpose of subparagraph 96(2.2)(d)(ii) of the federal Act, as it applies for the purposes of this Act, or an interest in a partnership all or substantially all of the property of which is either a film production prescribed for the purpose of that subparagraph or an interest in one or more partnerships all or substantially all of the property of each of which is such a film production, where
 - (A) the principal photography of the production began before 1996 or, in the case of a production that is a television series, the principal photography of one episode of the series began before 1996, and
 - (B) the principal photography of the production was completed before March 1996,
- or
- (iii) before July 1995
 - (A) pursuant to the terms of a document that is a prospectus, preliminary prospectus or registration statement filed before April 27, 1995 with a public authority in Canada pursuant to and in accordance with the securities legislation of Canada or of any province and, where required by law, accepted for filing by the public authority, and the funds so raised were expended before 1996 on expenditures contemplated by the document, or
 - (B) pursuant to the terms of an offering memorandum distributed as part of an offering of securities where
 - (I) the memorandum contained a complete or substantially complete description of the securities contemplated in the offering as well as the terms and conditions of the offering,
 - (II) the memorandum was distributed before April 27, 1995,
 - (III) solicitations in respect of the sale of the securities contemplated by the memorandum were made before April 27, 1995,

(IV) the sale of the securities was substantially in accordance with the memorandum, and

(V) the funds were expended before 1996 in accordance with the memorandum,

and

(b) the following conditions are met:

- (i) in the case of an interest to which clause (a)(i) or (iii) applies that is a tax shelter for which section 237.1 of the federal Act requires an identification number to be obtained from the Minister of National Revenue under the federal Act, the identification number was obtained before April 27, 1995;
- (ii) there is no agreement or other arrangement under which the taxpayer's obligations with respect to the interest can be changed, reduced or waived if there is a change to this Act or the federal Act or if there is an adverse assessment under this Act or the federal Act.

(11) Subsection 143.2(8) of the federal Act, as it applies for the purposes of this Act, does not apply to a taxpayer in respect of an indebtedness

(a) where the indebtedness

- (i) arose, and
- (ii) is related to property acquired, or outlays or expenses made or incurred, by the taxpayer before April 27, 1995, or

(b) where the indebtedness

- (i) arose, and
- (ii) is related to property acquired, or outlays or expenses made or incurred, by the taxpayer,

before 1996 pursuant to a particular agreement in writing made by the taxpayer before April 27, 1995 and there is no agreement or other arrangement under which the taxpayer's obligations under the particular agreement can be changed, reduced or waived if there is a change to this Act or the federal Act or if there is an adverse assessment under this Act or the federal Act.

(12) Subsections (4) and (5) apply after December 1, 1994.

2001 c1 s25

Expenditure limitations

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

2014 c6 s1(18)

Limit for contingent amount

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

2014 c6 s1(20)

Interest

34.1 Section 148 of the federal Act applies for the purposes of this Act.

1984 c3 s10

Exemptions

35(1) No tax is payable under this Act

- (a) on the taxable income of a corporation, other than a prescribed corporation, for a period when section 149 of the federal Act applies to exempt the taxable income of the corporation from federal tax,
- (b) on the taxable income of a corporation when that corporation was a non-resident owned investment corporation within the meaning of subsection 133(8) of the federal Act, or
- (c) by a corporation in respect of which an election has been made for the taxation year pursuant to subsection 143(2) of the federal Act and the Minister has accepted the election pursuant to

subsection 143(3) of the federal Act.

(1.1) Subsection (1) does not apply in respect of the taxable income of a benevolent or fraternal benefit society or order from carrying on a life insurance business or, for greater certainty, from the sale of property used by it in the year in, or held by it in the year in the course of, carrying on a life insurance business.

(1.2) For the purposes of subsection (1.1), the taxable income of a benevolent or fraternal benefit society or order from carrying on a life insurance business shall be computed on the assumption that it had no income or loss from any other sources.

(2) If it is necessary for the purposes of this Act to ascertain the taxable income of a corporation for a period that is a part of a taxation year, the taxable income for the period is deemed to be the proportion of the taxable income for the taxation year that the number of days in the period bears to the number of days in the taxation year.

(2.1) Subject to subsection (2.2), subsection (1) applies to an insurer described in paragraph 149(1)(t) of the federal Act only in respect of the part of its taxable income for a taxation year determined by the formula

$$\frac{A \times B \times C}{D}$$

where

A is its taxable income for the year;

B is

(a) 1/2, where less than 25% of the total of the gross premium income (net of reinsurance ceded) earned in the year by it and, where it is not a prescribed insurer for the purpose of paragraph 149(1)(t) of the federal Act, by all other insurers that

(i) are specified shareholders of the insurer,

(ii) are related to the insurer, or

(iii) where the insurer is a mutual corporation, are part of a group that controls, directly or indirectly in any manner whatever, or are controlled, directly or indirectly in any manner whatever by, the insurer,

is in respect of insurance of property used in farming or fishing or residences of farmers or fishermen, and

(b) 1, in any other case;

C is the part of the gross premium income (net of reinsurance ceded) earned by it in the year that, in the opinion of the Provincial Minister, is in respect of insurance of property used in farming or fishing or residences of farmers or fishermen;

D is the gross premium income (net of reinsurance ceded) earned by it in the year.

(2.2) Subsection (2.1) does not apply in respect of an insurer described in paragraph 149(1)(t) of the federal Act in respect of the taxable income of the insurer for a taxation year where more than 90% of the total of the gross premium income, net of reinsurance ceded, earned in the year by the insurer and, where the insurer is not a prescribed insurer under the federal Act, all other insurers that

(a) were specified shareholders of the insurer,

(b) were related to the insurer, or

(c) where the insurer is a mutual corporation, were part of a group that controlled, directly or indirectly in any manner whatever, or were controlled, directly or indirectly in any manner whatever, by the insurer,

is in respect of insurance of property used in farming or fishing or residences of farmers or fishermen.

(2.3) For the purposes of this Act, in computing the taxable income of an insurer for a particular taxation year, the insurer is deemed to have deducted under paragraphs 20(1)(a), 20(7)(c) and 138(3)(a) and section 140 of the federal Act in each of the taxation years preceding the particular year and in respect of which paragraph 149(1)(t) of the federal Act applied to the insurer, the greater of

- (a) the amount it claimed or deducted under those provisions for that preceding year, and
- (b) the greatest amount that could have been claimed or deducted under those provisions to the extent that the total of them does not exceed the amount that would be its taxable income for that preceding year if no amount had been claimed or deducted under those provisions.

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

- (a) the taxation year of the corporation that would otherwise have included that time is deemed to have ended immediately before that time, a new taxation year of the corporation is deemed to have begun at that time and, for the purpose of determining the corporation’s fiscal period after that time, the corporation is deemed not to have established a fiscal period before that time;
- (b) for the purpose of computing the corporation’s income for its first taxation year ending after that time, the corporation is deemed to have claimed or deducted, under sections 20, 138 and 140 of the federal Act, as they apply for the purposes of this Act, in computing its income for its taxation year ending immediately before that time, the greatest amount that could have been claimed or deducted for that year as a reserve under those sections;
- (c) the corporation is deemed to have disposed, at the time (in this subsection referred to as the “disposition time”) that is immediately before the time that is immediately before that time, of each property that was owned by it immediately before that time for an amount equal to its fair market value at that time and to have reacquired the property at that time at a cost equal to that fair market value;
- (d) for the purposes of applying sections 23 and 26.9 of this Act and sections 37, 65 to 66.4, 66.7 and 111 of the federal Act, as they apply for the purposes of this Act, to the corporation, the corporation is deemed to be a new corporation the first taxation year of which began at that time;
- (e) where, immediately before the disposition time, the corporation’s cumulative eligible capital in respect of a business exceeds the total of
 - (i) $\frac{3}{4}$ of the fair market value of the eligible capital property in respect of the business, and
 - (ii) the amount otherwise deducted under paragraph 20(1)(b) of the federal Act, as it applies for the purposes of this Act, in computing the corporation’s income from the business for the taxation year that ended immediately before that time,

the excess shall be deducted under paragraph 20(1)(b) of the federal Act, as it applies for the purposes of this Act, in computing the corporation’s income from the business for the taxation year that ended immediately before that time.

(4) Repealed 2001 c1 s26.

(5) Notwithstanding subsection (3), if at any time (the “particular time”) a corporation that is a federal Crown corporation prescribed under the federal regulations for the purposes of section 27 of the federal Act or a wholly-owned corporation subsidiary to such a corporation ceases to be exempt from tax under this Act, the following rules apply:

- (a) the taxation year of the corporation for the purposes of the federal Act that includes the particular time is the first taxable taxation year of the corporation for the purposes of this Act;
- (b) the taxable income of the corporation for the first taxable taxation year is the taxable income of the corporation under the federal Act for the same taxation year;
- (c) the income tax payable with respect to the amount taxable in Alberta of the corporation for the first

taxable taxation year is that proportion of the tax otherwise payable that the number of days in the first taxable taxation year following the particular time bears to the total number of days in the first taxable taxation year;

- (d) the corporation is, for the purposes of this Act, deemed to have amalgamated at the beginning of the first taxable taxation year with another corporation which immediately before that time is deemed to have had no shares, paid-up capital, assets, liabilities or tax balances, so that the rules of section 87 of the federal Act, as made applicable by this Act, will apply to the corporation as if it were a “new corporation” within the meaning of section 87 of the federal Act, except that the taxation year of the corporation referred to in paragraph 87(2)(a) of the federal Act is the same as the taxation year for federal purposes that includes the particular time.

RSA 2000 cA-15 s35;2001 c1 s26;2002 c28 ss23,34;
2005 c25 s4;2014 c6 s1(22)

Part 8 General

Division 1 Returns

Return to be filed

36(1) A return of a corporation in the prescribed form and containing the prescribed information shall be filed for each taxation year with the Provincial Minister within 6 months from the end of the taxation year by or on behalf of the corporation.

(1.1) Subsection (1) does not apply to the following corporations:

- (a) a corporation that is a registered charity throughout the taxation year;
- (b) a corporation that
 - (i) is a Canadian-controlled private corporation throughout the taxation year,
 - (ii) has no permanent establishments outside Alberta at any time during the taxation year,
 - (iii) has no taxable income for the taxation year before any of the amounts referred to in section 39(3)(a) are excluded or deducted for the year,
 - (iv) is not entitled to the refund of any overpayment for the taxation year,
 - (v) has gross revenues not exceeding \$500 000 as disclosed in its financial statements prepared for the taxation year,
 - (vi) has no pool amounts available to be carried forward as defined in section 20(1),
 - (vii) files a return for the taxation year with the Minister of National Revenue under Part I of the federal Act,
 - (viii) in each taxation year that this Act applies to it, has taxable income or a loss that is the same as and that has been computed in the same manner as its taxable income or loss determined under the federal Act, and
 - (ix) does not receive payment under section 26.4 of any royalty tax credit instalments in respect of the taxation year;
- (c) a corporation that by virtue of the application of section 35 has no tax payable for the taxation year.

(1.11) Subsection (1.1) does not apply to

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

(1.2) For the purposes of section 37(1), if a corporation that was required to file a return for a taxation year failed to file the return on the reasonable belief that it was not required to file a return because of subsection (1.1)(b) or (c), the corporation is deemed to have filed a return for the year under this Act on the date it filed its return for the year under Part I of the federal Act.

(1.3) For the purposes of sections 37.1, 44 and 47, where a corporation is not required to file a return for a taxation year because of subsection (1.1)(b) or (c),

- (a) the corporation is deemed to have filed a return for the year under this Act on the date it filed its return for the year under Part I of the federal Act, and
- (b) the return filed under Part I of the federal Act is deemed to be the return filed under this Act.

(2) Whether or not a corporation is liable to pay tax under this Act for a taxation year and whether or not a return has been filed or is required to be filed under subsection (1) or (4), a corporation or a director or officer of the corporation shall, on receipt of a demand served personally or by registered letter from the Provincial Minister, file with the Provincial Minister within any reasonable time stipulated by the Provincial Minister in the demand a return for the taxation year designated in the demand in the prescribed form and containing the prescribed information.

(3) A corporation required to file a return under this section shall include an estimate of the amount of tax payable and the amount of the refundable tax credits, if any, in the return and that return shall be signed by a person duly authorized by the board of directors or other governing body of the corporation.

(4) A trustee in bankruptcy, assignee, liquidator, curator, receiver, trustee or committee and an agent or other person administering, managing, winding-up, controlling or otherwise dealing with the property, business, estate or income of a corporation that has not filed a return for a taxation year as required by this section shall file the return required by subsection (1) for that corporation for that year.

RSA 2000 cA-15 s36;2002 c28 s34;2004 c21 s7;
2008 c29 s8;2010 c2 s14;2014 c6 s1(24)

Electronic filing of return

36.1(1) For the purposes of this section, “electronic filing” means using electronic media of a type or class specified in writing by the Provincial Minister in accordance with instructions specified in writing by the Provincial Minister.

(2) A person who meets the criteria specified in writing by the Provincial Minister may file a return of income for a taxation year by way of electronic filing.

(2.1) If a corporation is, in respect of a taxation year, a prescribed corporation, the corporation shall file its return for the taxation year by way of electronic filing.

(3) A return of income of a corporation for a taxation year that is sent by way of electronic filing by a person referred to in subsection (2) or (2.1) is deemed to have been filed on the day that the Provincial Minister acknowledges that

- (a) the return has been received, and
- (b) the return is in an acceptable format and is in the prescribed form.

RSA 2000 cA-15 s36.1;2002 c28 s34;2010 2 s5

Duty to file new information

36.2(1) If there has been an assessment action as defined in section 43(1.1) in respect of a corporation for a taxation year, the corporation shall, within 90 days from the later of the date of the assessment action and the required filing date under section 36(1), file with the Provincial Minister all information provided to the corporation under the federal Act or a statute of a province with respect to the assessment action.

(1.1) Notwithstanding subsection (1), the corporation is not required to file any information with the Provincial Minister in respect of an assessment action for a taxation year that does not result in a change to a balance, as defined in section 43(6), of the corporation for a taxation year.

(2) If a corporation discovers an error was made in the information contained in a return filed with the Provincial Minister in respect of a taxation year and the error was discovered within the normal reassessment period as defined in section 43(0.1) for that taxation year, the corporation shall, within 90 days from the later

of the date of discovering the error and the required filing date under section 36(1), file with the Provincial Minister an amended return for that taxation year disclosing the error and showing the corrections.

(3) If a corporation did not file a return for a taxation year pursuant to section 36(1.1) and subsequently determines, within the normal reassessment period as defined in section 43(0.1) for the taxation year, that it was not exempt from filing a return for that taxation year, the corporation shall, within 90 days from the later of the date of determining that it was not exempt and the required filing date under section 36(1), file with the Provincial Minister a return for that taxation year.

RSA 2000 cA-15 s36.2;2002 c28 s34;2004 c21 s8

Penalty for failure to file return

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

- (a) an amount equal to 5% of the amount by which the aggregate of
 - (i) the tax for the year that was unpaid when the return was required to be filed, and
 - (ii) the amounts paid or applied to the corporation under section 26.4 for the yearexceeds the aggregate of
 - (iii) the royalty tax credit to which the corporation is entitled for the year,
 - (iv) the amounts paid by the corporation under section 38(8) for the year on or before the day on which the return was required to be filed,
 - (v) the Alberta SR&ED tax credit under Division 3 of Part 6 to which the corporation is entitled for the year, and
 - (vi) the Alberta QET tax credit under section 26.92 to which the corporation is entitled for the year,and
- (b) the product obtained when 1% of the amount by which the aggregate of clause (a)(i) and (ii) exceeds the aggregate of clause (a)(iii) and (iv) is multiplied by the number of complete months, not exceeding 12, in the period between the date on which the return was required to be filed and the date on which the return was filed or an assessment was issued.

(2) For the purpose of computing a penalty under subsection (1) in respect of a corporation's return of income for a taxation year, the corporation's tax payable for the year shall be determined before taking into consideration the specified future tax consequences for the year.

(3) Notwithstanding subsection (1), when a corporation has failed to comply with section 36.2, the corporation is liable to a penalty equal to the aggregate of

- (a) 5% of the aggregate of any increase in tax and reduction in a refundable credit for that taxation year that was unpaid at the end of the 90-day period referred to in section 36.2, and
- (b) the product obtained when 1% of the aggregate of any increase in tax and reduction in a refundable credit for that taxation year that was unpaid at the end of the 90-day period referred to in section 36.2 is multiplied by the number of complete months, not exceeding 12, in the period between the date on which the information, amended return or return was required to be filed under section 36.2 and the date on which it was filed,

unless the Provincial Minister exercised the powers in section 43(1.2)(c), (d) or (e) pursuant to section 43(1.21) within 12 months from the end of the 90-day period referred to in section 36.2(1).

(4) Where, in an appeal under this Act, any penalty assessed by the Provincial Minister under subsection (3) is in issue, the burden of establishing the facts justifying the assessment of the penalty is on the Provincial Minister.

RSA 2000 cA-15 s37;2002 c28 s34;2005 c25 s5;
2008 c29 s9;2014 c6 s1(25)

Penalty for false statement

37.1(1) If a person acting on behalf of a corporation knowingly, or under circumstances amounting to gross negligence, has made or has participated in, assented to or acquiesced in the making of, a false statement or omission in a return, form, certificate, statement or answer (in this section referred to as a return) filed or made in respect of a taxation year for the purposes of this Act, the corporation is liable to a penalty of the greater of \$100 and 50% of the total of

(a) the amount, if any, by which

(i) the tax for the year that would be payable by the corporation under this Act, if the amount taxable in Alberta for the year were computed

(A) by adding to the taxable income reported by the corporation in its return for the year that portion of its understatement of income for the year that is reasonably attributable to the false statement or omission,

(B) by recalculating the Alberta allocation factor as it would be calculated under section 19 if it were not for the false statement or omission, and

(C) by deducting from the royalty tax deduction reported by the corporation in its return for the year the portion, if any, of the corporation's royalty tax deduction that is reasonably attributable to the false statement or omission

exceeds

(ii) the tax for the year that would be payable by the corporation under this Act if the corporation were assessed on the basis of the corporation's amount taxable in Alberta as filed,

(b) the amount, if any, by which

(i) the tax for the year that would be payable if the tax were computed by subtracting from the deductions from the tax otherwise payable by the corporation for the year the portion of any of the deductions that is reasonably attributable to the false statement or omission

exceeds

(ii) the tax for the year that would be payable by the corporation under this Act if the corporation's tax payable for the year were assessed on the basis of the information provided in its return for the year,

and

(c) the amount, if any, by which

(i) the refundable tax credits for the year that would be payable to the corporation if they were determined on the basis of information provided in the corporation's return for the year

exceed

(ii) the refundable tax credits for the year that would be payable to the corporation if they were determined by deducting from the refundable tax credits claimed by the corporation in its return for the year the portion of them that is reasonably attributable to the false statement or omission.

(2) For the purpose of subsection (1), the taxable income reported by a corporation in its return for a taxation year is deemed to be not less than nil and the "understatement of income" for a year of a corporation means the aggregate of

(a) the amount, if any, by which

(i) the aggregate of the amounts that were not reported by the corporation in its return and that were required to be included in computing the corporation's income for the year under this Act

exceeds

(ii) the aggregate of the amounts that could have been deducted by the corporation in computing its

income for the year under this Act that were wholly applicable to the amounts referred to in subclause (i) and that were not deducted in computing the corporation's income reported in the corporation's return for the year,

(b) the amount, if any, by which

(i) the aggregate of the amounts deducted in computing the corporation's income for the year reported by the corporation in its return

exceeds

(ii) the aggregate of the amounts referred to in subclause (i) that were deductible in computing the corporation's income for the year in accordance with this Act,

and

(c) the amount, if any, by which

(i) the aggregate of the amounts deducted, other than by virtue of the application of section 111 of the federal Act, from the corporation's income for the purpose of computing the taxable income for the year reported by the corporation in its return

exceeds

(ii) the aggregate of the amounts deductible, other than by virtue of the application of section 111 of the federal Act, from the corporation's income for the purpose of computing its taxable income for the year in accordance with this Act.

(3) In determining under subsection (2) the understatement of income for a taxation year of a corporation, the following amounts are deemed not to be deductible or excludable in computing the corporation's income for the year:

(a) any amount that may be deducted under section 41 of the federal Act in respect of its listed-personal-property loss for a subsequent taxation year, and

(b) any amount that may be excluded from the corporation's income by reason of section 49 of the federal Act in respect of the exercise of any option in a subsequent taxation year.

(4) Where, in an appeal under this Act, any penalty assessed by the Provincial Minister under this section or section 73.01 is in issue, the burden of establishing the facts justifying the assessment of the penalty is on the Provincial Minister.

RSA 2000 cA-15 s37.1;2001 c1 s27;2002 c28 s34;
2003 c34 s11;2008 c29 s10

Electronic suppression of sales device

37.2(1) Every person in respect of whom a penalty has been assessed under section 163.3 of the federal Act who, at the time the penalty was assessed,

(a) was a resident of Alberta, or

(b) had a permanent establishment in Alberta,

is liable to a penalty under this Act.

(2) The amount of the penalty to which a person is liable under subsection (1) is equal to the amount of the penalty assessed under section 163.3 of the federal Act.

2015 c21 Sched. 2 s1(13)

Payment on account

38(1) Subject to subsections (1.1), (1.2) and (2), a corporation shall, in respect of each of its taxation years, pay to the Provincial Minister

(a) either

(i) on or before the last day of each month in the year an amount equal to 1/12 of its tax payable

under Part 5 for that year as estimated by it,

- (ii) on or before the last day of each of the first 2 months in the year, an amount equal to 1/12 of its 2nd instalment base for the year and, on or before the last day of each of the following months in the year, an amount equal to 1/10 of the amount remaining after deducting the amount computed pursuant to this subclause in respect of the first 2 months from its first instalment base for the year, or
- (iii) on or before the last day of each month in the year, an amount equal to 1/12 of its first instalment base for the year,

and

- (b) on or before the end of the 2nd month following the year, the remainder of the tax payable by it under this Act for the year.

(1.1) Notwithstanding subsection (1), a corporation that is throughout the year a Canadian-controlled private corporation as defined in section 22(1)(c) shall pay the amount of the tax payable for a taxation year on or before the last day of the period ending 3 months after the end of the year if

- (a) in the year it deducted an amount under section 22 in computing its tax payable under Part 5 and had taxable income determined before taking into consideration the specified future tax consequences for the year that did not exceed \$500 000, or
- (b) in the immediately preceding year it deducted an amount under section 22 in computing its tax payable under Part 5 and had taxable income determined before taking into consideration the specified future tax consequences for that preceding year that did not exceed \$500 000.

(1.2) Notwithstanding subsection (1), where the first instalment base of the corporation for a taxation year or the tax payable by the corporation for the taxation year (determined before taking into consideration the specified future tax consequences for the year) is not more than \$2000, the corporation may pay all of its tax payable for the year on or before

- (a) the end of the 3rd month following the year, if the corporation is a Canadian-controlled private corporation throughout the year, or
- (b) the end of the 2nd month following the year, in any other case.

(2) Notwithstanding subsection (1)(a), the amount payable by a mutual fund corporation to the Provincial Minister on or before the relevant day for payment specified in subsection (1)(a) is deemed to be the amount, if any, by which the amount so payable otherwise determined under that subsection exceeds 1/12 of the corporation's capital gains refund for the year as determined under section 30.

(2.1) For the purposes of subsection (1), if the taxation year of a corporation contains fewer than 365 days and the last day of the taxation year is more than 27 days after the last complete month of the year, the last day of the taxation year is deemed to be the last day of a month in the year.

(3) Repealed 1995 c3 s10.

(4) Subject to subsection (5), in this section "first instalment base" and "2nd instalment base" of a corporation for a taxation year have the meanings prescribed by federal regulation 5301.

(5) In the application of federal regulation 5301 for the purposes of this section,

- (a) a reference to "under Part I of the Act" is deemed to be a reference to "under Part 5 of this Act", and
- (b) a reference to taxes payable under parts of the federal Act other than Part I is deemed to be struck out.

(6), (7) Repealed 1986 c1 s17.

(8) A corporation shall in respect of its taxation year pay to the Provincial Minister on or before its balance-due day for the year the amount, if any, by which the aggregate of the amounts paid by the Provincial Minister under section 26.4 for the year exceeds the royalty tax credit for the year to which the corporation is entitled.

Excess refund

38.1(1) If at any time the Provincial Minister determines that an amount has been refunded to a corporation for a taxation year in excess of the amount to which it was entitled as a refund,

- (a) the excess is deemed to be an amount that became payable by the corporation on the day on which the amount was refunded, and
- (b) the corporation shall pay to the Provincial Minister interest at the prescribed rate on the excess from the day it became payable to the day of payment.

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

(3) Where an amount has been applied to a liability of a corporation to Her Majesty in right of Alberta in excess of the amount to which the corporation was entitled as a refund under this Act, this section applies as if that amount had been refunded to the taxpayer on the day on which it was so applied.

RSA 2000 cA-15 s38.1;2002 c28 s34;2014 c6 s1(26)

Interest

39(1) A corporation shall pay to the Provincial Minister in respect of a taxation year and in respect of the period beginning on its balance-due day for the year and ending,

- (a) if there is an overpayment for the year, immediately before the first day in respect of which interest is computed on that overpayment under section 47(4), or
- (b) in any other case, on the day on which the corporation's liability for tax for the year is extinguished,

the amount, if any, by which interest at the prescribed rate on the amount of the corporation's tax for the year, computed from the beginning to the end of the period, together with interest at the prescribed rate on the aggregate of the amounts paid by the Provincial Minister under section 26.4 for the year computed from the beginning to the end of the period exceeds the aggregate of

- (c) the aggregate of all amounts, each of which is interest at the prescribed rate on an instalment of tax paid by the corporation in respect of the year, computed from the day that is the later of the beginning of the period and the day of payment to the end of the period,
- (d) interest at the prescribed rate on the royalty tax credit instalments for the year to which the corporation would have been entitled under section 26.4 if it had applied for instalments, computed from the beginning to the end of the period, and
- (e) interest at the prescribed rate on the aggregate of the amounts paid by the corporation under section 38(8) for the year, computed from the day that is the later of the beginning of the period and the day of payment to the end of the period.

(1.1) Repealed 1998 c40 s1(21).

(2) In addition to the interest payable under subsection (1), a corporation shall pay to the Provincial Minister, in respect of a taxation year and in respect of the period beginning on the first day of the year and ending on its balance-due day for the year, the amount, if any, by which the aggregate of

- (a) all amounts, each of which is interest at the prescribed rate on tax or an instalment of tax for the year that the corporation was required to pay to the Provincial Minister before the end of the period, computed from the day on or before which the tax or instalment was required to be paid to the end of the period, and
- (b) all amounts, each of which is interest at the prescribed rate on an amount paid during the period by the Provincial Minister under section 26.4 for the year, computed from the day of payment to the end of the period,

exceeds the aggregate of

- (c) all amounts, each of which is interest at the prescribed rate on an amount paid by the corporation at or before the end of the period and applied by the Provincial Minister to reduce the corporation's liability for an amount payable for the year computed from the day that is the later of the beginning of the period and the day of payment to the end of the period, and
- (d) all amounts, each of which is interest at the prescribed rate on the amount in respect of a month in the year that would have been determined under section 26.4(4) if "estimated" were struck out in clause (a)(i) and (ii) of that subsection computed from the last day of the month to the end of the period.

(2.1) For the purposes of subsection (2)(c) and (d), "interest at the prescribed rate" is deemed to refer to the interest rate prescribed when interest is required to be paid to the Provincial Minister.

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

- (a) the tax payable by the corporation for the year is deemed to be the amount that it would be if the consequences of the deduction, reduction or exclusion of the following amounts were not taken into consideration:
 - (i) any amount deducted under this Act by virtue of the application of section 41 of the federal Act in respect of its listed-personal-property loss for a subsequent taxation year,
 - (ii) any amount excluded from its income for the year under this Act by virtue of the application of section 49 of the federal Act in respect of the exercise of an option in a subsequent taxation year,
 - (iii) any amount deducted under this Act by virtue of the application of section 111 of the federal Act in respect of a loss for a subsequent taxation year, and
 - (iv) any amount by which the amount included under subsection 91(1) of the federal Act as it applies for the purposes of this Act for the year is reduced because of a reduction referred to in section 44(2)(b) in the foreign accrual property income of a foreign affiliate of the corporation for a taxation year of the affiliate that ends in the year,

and

- (b) the amount by which the tax payable by the corporation for the year is reduced as a consequence of the deduction or exclusion of amounts described in clause (a) is deemed to have been paid by the corporation on account of tax payable for the year on the day that is the latest of
 - (i) the first day immediately following that subsequent taxation year,
 - (ii) the day on which the corporation's return under section 36 for that subsequent taxation year was filed,
 - (iii) if an amended return for the taxation year or a prescribed form amending its return for the year was filed under this Act by virtue of the application of subsection 49(4) of the federal Act or section 44 of this Act, the day on which the amended return or prescribed form was filed,
 - (iv) if, as a consequence of a request, the Provincial Minister reassessed the corporation's tax for the year to take into account the exclusion or deduction, the day on which the request was made, and
 - (v) if, as a consequence of an assessment action as defined in section 43(1.1), the Provincial Minister reassesses the corporation's tax for the year to take into account the exclusion or deduction and subclauses (iii) and (iv) do not apply, the day on which the reassessment is issued.

(4) For the purposes of subsection (2) and section 73.1, when a corporation is required to pay an instalment of tax for a taxation year computed by reference to a method described in section 38(1), it is deemed to have been liable to pay on or before each day referred to in section 38(1)(a)(i) to (iii) a part or instalment computed by reference to

- (a) its tax payable under this Act for the year, determined before taking into consideration the specified future tax consequences for the year,

- (b) its first instalment base for the year, or
- (c) its 2nd instalment base and its first instalment base for the year,

whichever method gives rise to the least amount to be paid by the corporation.

(5) Notwithstanding any other provision in this section, if the tax payable under this Act by a corporation for a taxation year is increased by virtue of an adjustment of an income or profits tax payable by it to the government of a country other than Canada or to the government of a state, province or other political subdivision of such a country, no interest is payable in respect of that increase in the corporation's tax payable for the period ending 90 days after the day on which the corporation is first notified of the amount of the adjustment.

(5.1) If the tax payable under this Act by a corporation for a taxation year is more than it otherwise would be because of a consequence for the year described in paragraph (b) of the definition of "specified future tax consequence" in subsection 248(1) of the federal Act in respect of an amount purported to be renounced in a calendar year, for the purposes of the provisions of this Act (other than this subsection) relating to interest payable under this Act, an amount equal to the additional tax payable is deemed

- (a) to have been paid on the corporation's balance-due day for the taxation year on account of the corporation's tax payable under this Act for the year, and
- (b) to have been refunded on April 30 of the following calendar year to the corporation on account of the corporation's tax payable under this Act for the taxation year.

(6) If a corporation is required to pay a penalty, the corporation shall pay the penalty to the Provincial Minister together with interest at the prescribed rate computed,

- (a) in the case of a penalty payable by reason of section 37, 37.1 or 73.01, from the day on or before which the corporation's return under section 36 for the taxation year in respect of which the penalty is payable was required to be filed to the day of payment,
- (b) in the case of a penalty payable for a taxation year by reason of section 73.1, from the corporation's balance-due day for the year to the day of payment of the penalty, and
- (c) in the case of a penalty payable by reason of any other provision of this Act, from the day of sending of the notice of original assessment of the penalty to the day of payment.

RSA 2000 cA-15 s39;2001 c1 s28;2002 c28 ss24,34;
2005 c25 s6;2008 c29 s11;2014 c6 s1(28);
2015 c21 Sched. 2 s1(28)

Repayment of excess tax

39.1(1) If a corporation has paid an amount on account of tax payable for a taxation year under section 38(1) (a) and, before the expiration of the taxation year, the corporation declares in the prescribed form that

- (a) the amount paid is in excess of the tax payable by it for the taxation year, and
- (b) it will suffer great financial hardship because it has paid an amount in excess of tax payable,

the Provincial Minister may pay to the corporation all or part of the amount that the corporation has declared to be in excess of the tax payable for the taxation year.

(2) The amount or portion of the amount paid on account of tax payable under section 38(1)(a) by a corporation that equals any amount that is paid by the Provincial Minister to the corporation under subsection (1) is deemed not to have been paid for the purposes of this Act.

RSA 2000 cA-15 s39.1;2002 c28 s34

Offset of refund and arrears interest

39.2(1) In this section,

- (a) "accumulated overpayment amount" of a corporation for a period means the overpayment amount of the corporation for the period together with refund interest (including, for greater certainty, compound interest) that accrued with respect to the overpayment amount before the date specified under subsection (3)(b) by the corporation in its application for the period;

- (b) “accumulated underpayment amount” of a corporation for a period means the underpayment amount of the corporation for the period together with arrears interest (including, for greater certainty, compound interest) that accrued with respect to the underpayment amount before the date specified under subsection (3)(b) by the corporation in its application for the period;
- (c) “arrears interest” means interest computed under subsection (5)(b) or section 38.1(1)(b), 39(1) or (6) or 47(4.3)(b) or (5)(b);
- (d) “overpayment amount” of a corporation for a period means the amount referred to in subsection (2)(a)(i) that is refunded to the corporation or the amount referred to in subsection (2)(a)(ii) to which the corporation is entitled;
- (e) “refund interest” means interest computed under section 47(4) or (4.31);
- (f) “underpayment amount” of a corporation for a period means the amount referred to in subsection (2)(b) payable by the corporation on which arrears interest is computed.

(2) A corporation may apply in writing to the Provincial Minister for the reallocation of an accumulated overpayment amount for a period that begins after 2000 on account of an accumulated underpayment amount for the period if, in respect of tax paid or payable by the corporation under this Act,

(a) refund interest for the period

(i) is computed on an amount refunded to the corporation, or

(ii) would be computed on an amount to which the corporation is entitled, if that amount were refunded to the corporation,

and

(b) arrears interest for the period is computed on an amount payable by the corporation.

(3) A corporation’s application referred to in subsection (2) for a period is deemed not to have been made unless

(a) it specifies the amount to be reallocated, which shall not exceed the lesser of the corporation’s accumulated overpayment amount for the period and its accumulated underpayment amount for the period,

(b) it specifies the effective date for the reallocation, which shall not be earlier than the latest of

(i) the date from which refund interest is computed on the corporation’s overpayment amount for the period, or would be so computed if the overpayment amount were refunded to the corporation,

(ii) the date from which arrears interest is computed on the corporation’s underpayment amount for the period, and

(iii) January 1, 2001,

and

(c) it is made on or before the day that is 90 days after the latest of

(i) the day of sending of the first notice of assessment giving rise to any portion of the corporation’s overpayment amount to which the application relates,

(ii) the day of sending of the first notice of assessment giving rise to any portion of the corporation’s underpayment amount to which the application relates,

(iii) if the corporation has served a notice of objection to an assessment referred to in subclause (i) or (ii), the day of sending of the notification under section 48(4) by the Provincial Minister in respect of the notice of objection,

(iv) if the corporation has appealed, or applied for permission to appeal, from an assessment referred to

in subclause (i) or (ii) to a court of competent jurisdiction, the day on which the court dismisses the application, the application or appeal is discontinued or final judgment is pronounced in the appeal, and

- (v) the day of sending of the first notice to the corporation indicating that the Provincial Minister has determined any portion of the corporation's overpayment amount to which the application relates, if the overpayment amount has not been determined as a result of a notice of assessment sent before that day.
- (4) The amount to be reallocated that is specified under subsection (3)(a) by a corporation is deemed to have been refunded to the corporation and paid on account of the accumulated underpayment amount on the date specified under subsection (3)(b) by the corporation.
- (5) If an application in respect of a period is made under subsection (2) by a corporation and a portion of the amount to be reallocated has been refunded to the corporation, the following rules apply:
- (a) a particular amount equal to the total of
 - (i) the portion of the amount to be reallocated that was refunded to the corporation, and
 - (ii) refund interest paid or credited to the corporation in respect of that portionis deemed to have become payable by the corporation on the day on which the portion was refunded;
 - (b) the corporation shall pay to the Provincial Minister interest at the prescribed rate on the particular amount from the day referred to in clause (a) to the date of payment.
- (6) If a particular reallocation of an accumulated overpayment amount under subsection (4) results in a new accumulated overpayment amount of the corporation for a period, the new accumulated overpayment amount shall not be reallocated under this section unless the corporation so applies in its application for the particular reallocation.

2001 c1 s29; 2005 c25 s17; 2014 c13 s49;
2015 c21 Sched. 2 s1(28), (29)

Period where interest not payable

39.3 Notwithstanding any other provision of this Act, if the Provincial Minister notifies a corporation that the corporation is required to pay a specified amount under this Act and the corporation pays the specified amount in full before the end of the period that the Provincial Minister specifies in the notice, interest is not payable on the specified amount for the period.

2005 c25 s7

40 Repealed 1981 c8 s15.

Division 2 Assessment

Assessment of tax

41(1) The Provincial Minister shall, with all due dispatch after receipt of a return, examine the return and assess the tax under Part 5 for the year and the interest and penalties payable and shall determine

- (a) the amounts of the refundable tax credits, if any, for the taxation year, and
- (b) the amount of the refund, if any, to which a corporation is entitled pursuant to section 28 or 30 for the taxation year.

(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.

(1.1) Notwithstanding section 43(1) to (3), where the Provincial Minister has accepted an election or an amendment to or revocation of an election referred to in subsection 220(3.2) of the federal Act, such assessment of the tax payable by each corporation in respect of any taxation year commencing before the day the Provincial Minister receives the relevant application or notification shall be made as is necessary to take

into account the election or the amended or revoked election, as the case may be.

(1.11) Where at any time the Provincial Minister ascertains the tax consequences to a corporation by reason of section 72.1(2) with respect to a transaction, the Provincial Minister

- (a) shall, in the case of a determination pursuant to section 72.1(8), or
- (b) may, in any other case,

determine any amount that is relevant, for the purposes of computing the income, taxable income, taxable income earned in Canada or amount taxable in Alberta of, tax, refundable tax credit or other amount payable by, or amount refundable to, the corporation under this Act, and where such a determination is made, the Provincial Minister shall send to the corporation, with all due dispatch, a notice of determination stating the amount so determined.

(1.111) When the Provincial Minister makes a determination of an amount that is based on a federal assessment action, the Provincial Minister shall designate the determination as being based on the federal action.

(1.12) A determination of an amount shall not be made under subsection (1.11) with respect to a corporation at a time when that amount is relevant only for the purposes of computing the income, taxable income, taxable income earned in Canada or amount taxable in Alberta of, tax, refundable tax credit or other amount payable by, or amount refundable to, the corporation under this Act for a taxation year ending before that time.

(2) When the Provincial Minister ascertains the amount of a corporation's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year and the corporation has not reported that amount as a non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss in its return filed for that year, the Provincial Minister shall, at the request of the corporation, determine with all due dispatch the amount of the corporation's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss, as the case may be, and shall send a notice of determination to the person who filed the return.

(3) Repealed 2002 c28 s25.

(4) The provisions of this Act relating to an assessment or reassessment and to assessing or reassessing tax apply to a determination or redetermination of an amount, except that

- (a) subsection (1) and section 42(1) do not apply to determinations made under subsections (1.11) and (2),
- (b) an original determination of a corporation's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year may be made by the Provincial Minister only at the request of the corporation, and
- (c) section 47(4.4) does not apply to a determination or redetermination to which the corporation is bound by virtue of subsection (6).

(5) If the Provincial Minister makes a determination of the amount of a corporation's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year under subsection (2) or makes a determination under subsection (1.11) with respect to a corporation, subject to the corporation's rights of objection and appeal in respect of a determination and to any redetermination by the Provincial Minister, the determination is binding on both the Provincial Minister and the corporation for the purpose of calculating the income, taxable income, taxable income earned in Canada or amount taxable in Alberta of, tax, refundable tax credit or other amount payable by, or amount refundable to, the corporation for any taxation year.

(6) Where a corporation is a member of a partnership in a taxation year, for the purposes of calculating

- (a) the income, taxable income or taxable income earned in Canada of,
- (b) the tax or other amount payable by,
- (c) any amount refundable to, or
- (d) any amount deemed to have been paid or to have been an overpayment by

the corporation as a member of the partnership for any taxation year under this Act, the corporation is bound by any determination or redetermination by the Minister of National Revenue pursuant to subsection 152(1.4) of the federal Act with respect to the income or loss of the partnership or any deduction or other amount, or any other matter, in respect of the partnership for the fiscal period referred to in subsection 152(1.4) of the federal Act or a decision of the Tax Court of Canada, the Federal Court of Canada or the Supreme Court of Canada rendered in any appeal undertaken by any member of the partnership from such determination or redetermination where such determination, redetermination or decision is final and all rights of objection and appeal have expired.

(7) Notwithstanding sections 43(1), (1.02), (2) and (3), the Provincial Minister may, before the end of the day that is one year after the day that the Minister of National Revenue initiates a federal assessment action with respect to a corporation pursuant to paragraph 152(1.7)(b) of the federal Act, assess the tax, interest, penalties or other amounts payable and determine an amount deemed to have been paid or to have been an overpayment under this Act in respect of the corporation as a member of the partnership insofar as it is necessary to give effect to the determination or redetermination made by the Minister of National Revenue pursuant to subsection 152(1.7) of the federal Act or a decision of the Tax Court of Canada, the Federal Court of Canada or the Supreme Court of Canada rendered in any appeal undertaken by any member of the partnership from such determination or redetermination.

(8) Where, at any time, pursuant to subsection 152(1.8) of the federal Act, the Minister of National Revenue, the Tax Court of Canada, the Federal Court of Canada or the Supreme Court of Canada concludes that the partnership referred to in that subsection did not exist for the fiscal period referred to in subsection 152(1.4) of the federal Act or that, throughout the fiscal period, a corporation was not a member of the partnership, the Provincial Minister may, notwithstanding sections 43(1), (1.02), (2) and (3), within one year after the Minister of National Revenue undertakes a federal assessment action referred to in subsection 152(1.8) of the federal Act with respect to the corporation, assess the tax, interest, penalties or other amounts payable, or determine an amount deemed to have been paid or to have been an overpayment under this Act by the corporation for any taxation year, but only to the extent that the assessment or determination can reasonably be regarded

- (a) as relating to any matter that was relevant in the making of the determination made by the Minister of National Revenue pursuant to subsection 152(1.4) of the federal Act,
- (b) as resulting from the conclusion that the partnership did not exist for the fiscal period referred to in subsection 152(1.4) of the federal Act, or
- (c) as resulting from the conclusion that the corporation was throughout the fiscal period referred to in subsection 152(1.4) of the federal Act, not a member of the partnership.

(9) In this section, “partnership” means a partnership of which a corporation is a member.

RSA 2000 cA-15 s41;2001 c1 s30;2002 c28 ss25,34;
2005 c25 s17;2008 c29 s12

Notice of assessment

42(1) After examination of a return the Provincial Minister shall send a notice of assessment to the corporation that filed the return or notify the corporation in writing that no tax is payable for the taxation year.

(2) Liability for tax imposed by this Act is not affected by an incorrect assessment or by the fact that no assessment has been made.

RSA 1980 cA-17 s42

Assessment, reassessment, etc.

43(0.1) For the purpose of this section, the normal reassessment period of a corporation in respect of a taxation year is,

- (a) if at the end of the year the corporation is a Canadian-controlled private corporation, the period that ends 3 years after the earlier of
 - (i) the day of sending of a notice of an original assessment under this Act in respect of the corporation for the year, and
 - (ii) the day of sending of an original notification that no tax is payable by the corporation for the year,

and

- (b) in any other case, the period that ends 4 years after the earlier of
 - (i) the day of sending of a notice of an original assessment under this Act in respect of the corporation for the year, and
 - (ii) the day of sending of an original notification that no tax is payable by the corporation for the year.

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

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

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

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

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

shall not be counted in the computation of

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

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

(1) The Provincial Minister may at any time make an assessment, reassessment or additional assessment of tax for a taxation year, interest or penalties, if any, payable under this Act by a corporation, notify in writing any corporation by whom a return of income for a taxation year has been filed that no tax is payable for the year, or determine the corporation's entitlement to and the amount, if any, of a refundable tax credit for a taxation year, except that an assessment, reassessment or additional assessment may be made after the corporation's normal reassessment period in respect of the year only if

- (a) the corporation or person filing the return
 - (i) has made any misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in filing the return or in supplying any information under this Act,
 - (ii) has filed with the Provincial Minister a waiver in prescribed form within the normal reassessment period for the corporation in respect of the year,
 - (iii) has filed with the Provincial Minister a waiver in prescribed form within any other period established by this Act during which the Provincial Minister may reassess, make additional

assessments of or assess tax, interest or penalties or determine the entitlement to and the amount, if any, of any refundable tax credits, or

- (iv) has failed to comply with section 36.2,
- (a.1) the assessment or reassessment is required pursuant to section 44.1 or 44.2,
- (b) the assessment, reassessment or additional assessment is made before the day that is 3 years after the end of the normal reassessment period for the corporation in respect of the year and
 - (i) is required pursuant to section 44 or would be so required if the corporation had claimed an amount by filing the prescribed form referred to in that section on or before the day referred to in that section,
 - (ii) is made as a consequence of the assessment or reassessment pursuant to this clause or section 44 of tax payable by another taxpayer,
 - (iii) is made as a consequence of a transaction involving the corporation and a non-resident person with whom the corporation was not dealing at arm's length,
 - (iv) is made as a consequence of a payment or reimbursement of any income or profits tax to or by the government of a country other than Canada or a government of a state, province or other political subdivision of any such country,
 - (v) is made as a consequence of a reduction under subsection 66(12.73) of the federal Act, as it applies for the purposes of this Act, of an amount purported to be renounced under section 66 of the federal Act,
 - (vi) is made as a consequence of the application of section 72.1, or
 - (vii) is made to give effect to the application of any of sections 94, 94.1 and 94.2 of the federal Act as they apply for the purposes of this Act,
- (b.1) the corporation filing the return has filed with the Provincial Minister a waiver in the prescribed form within the additional 3-year period referred to in clause (b), or
- (c) the assessment is the first assessment in respect of the corporation's Alberta SR&ED 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 Alberta SR&ED tax credit for the year.

(1.01) A waiver referred to in subsection (1)(a)(iii) may be filed only in respect of a matter that may be the subject of the reassessment, assessment or determination referred to in subsection (1)(a)(iii).

(1.02) Notwithstanding subsections (1) and (2), an assessment, reassessment or additional assessment to which subsection (1)(a), (b), (b.1) or (c) 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,

- (a) where subsection (1)(a)(i), (ii) or (iii) applies to the assessment, reassessment or additional assessment,
 - (i) any misrepresentation made by the corporation or a person who filed the corporation's return of income for the year that is attributable to neglect, carelessness or wilful default or any fraud committed by the corporation or that person in filing the return or supplying any information under this Act, or
 - (ii) a matter specified in a waiver filed with the Provincial Minister in respect of the year,
- (a.1) where subsection (1)(a)(iv) applies to the assessment, reassessment or additional assessment, the issues that gave rise to the assessment action, the errors made in the information contained in the return filed or the information or return filed pursuant to section 36.2,
- (b) where subsection (1)(b) or (b.1) applies to the assessment, reassessment or additional assessment,

- (i) the assessment, reassessment or additional assessment to which subsection (1)(b)(i) applies,
- (ii) the assessment or reassessment referred to in subsection (1)(b)(ii),
- (iii) the transaction referred to in subsection (1)(b)(iii),
- (iv) the payment or reimbursement referred to in subsection (1)(b)(iv),
- (v) the reduction referred to in subsection (1)(b)(v), or
- (vi) the denial of a tax benefit from an avoidance transaction as described in section 72.1,

and

- (c) where subsection (1)(c) applies to the assessment, reassessment or additional assessment, the amount of the Alberta SR&ED tax credit to which the corporation was entitled.

(1.1) In subsections (1.2), (1.21) and (2), “assessment action” means

- (a) an assessment, reassessment or additional assessment of tax, interest or penalties,
- (b) a determination or redetermination of a loss,
- (c) a confirmation of an assessment, reassessment or additional assessment of tax, interest or penalties or of a determination or redetermination of a loss, or
- (d) a notification that no tax is payable

under the federal Act or a statute of a province that imposes a tax similar to the tax imposed under this Act.

(1.2) Notwithstanding subsection (1), if

- (a) a corporation files information under section 36.2(1) for a particular taxation year as a result of an assessment action, or
- (b) a corporation files an amended return or return under section 36.2(2) or (3) for a particular taxation year,

the Provincial Minister, in respect of the particular taxation year or any taxation year in which a loss of the particular taxation year may be deducted under subsection 41(2) or section 111 of the federal Act as it applies for the purposes of this Act, may, not later than the later of 12 months after the date on which the corporation files information, a return or an amended return referred to in clause (a) or (b) and the end of the normal reassessment period,

- (c) reassess, make additional assessments of or assess tax, interest or penalties,
- (d) notify in writing a corporation that filed a return under this Act for the year that no tax is payable for the year, or
- (e) determine the corporation’s entitlement to and the amount, if any, of a refundable tax credit.

(1.21) If the Provincial Minister becomes aware that there has been an assessment action in respect of a corporation,

- (a) the Provincial Minister may exercise the powers in subsection (1.2)(c), (d) and (e) with respect to that corporation before the corporation files information under section 36.2 in respect of that action, and
- (b) section 36.2 ceases to apply with respect to that assessment action at the time the Provincial Minister exercises any of the powers referred to in clause (a).

(1.3) For the purposes of this section, where a corporation did not file a return for a taxation year because of section 36(1.1)(b) or (c), a notice of an original assessment or notification that no tax is payable for the year under this Act is deemed to be sent to the corporation on the day of sending under Part I of the federal Act by the Minister of National Revenue of a notice of an original assessment or notification that no tax is payable for that year.

(2) There shall not be included in computing the income of a corporation for a taxation year, for the purpose of an assessment, reassessment or additional assessment made under this Act after the corporation's normal reassessment period in respect of the year,

- (a) any amount that was not included in computing the corporation's income for the purpose of an assessment, reassessment or additional assessment made under this Act before the end of the period,
- (b) any amount that the corporation establishes cannot be reasonably regarded as relating to an assessment action, or
- (c) any amount that the corporation establishes cannot be reasonably regarded as an error that was corrected by the filing of an amended return under section 36.2(2).

(3) Where the Provincial Minister would, but for this subsection, be entitled to reassess, make an additional assessment, assess tax, interest or penalties or determine the entitlement to and the amount, if any, of a corporation's refundable tax credit by virtue only of the filing of a waiver under subsection (1)(a)(ii) or (iii) or (b.1), the Provincial Minister may not make that reassessment, additional assessment, assessment or determination after the day that is 6 months after the date on which a notice of revocation of the waiver in the prescribed form is filed.

(3.1) Subject to subsection (3.2), if in a particular taxation year a corporation is notified that, pursuant to section 38 or 39 of the *Mines and Minerals Act*, the Minister responsible for that Act has recalculated or made additional calculations that change an amount referred to in section 26(1.01)(a) or (b) for a previous taxation year in respect of which the normal reassessment period has expired, the Provincial Minister, notwithstanding subsection (1) and within the normal reassessment period for the particular taxation year, may

- (a) assess, reassess or make additional assessments of tax, interest or penalties with respect to the previous taxation year, and
- (b) determine or redetermine the entitlement to and the amount, if any, of the royalty tax credit of the corporation for the previous taxation year.

(3.2) The Provincial Minister may assess, reassess or make additional assessments, determinations or redeterminations under subsection (3.1) only to the extent that they are reasonably related to the recalculation or additional calculation under section 39 or 39.01 of the *Mines and Minerals Act* referred to in subsection (3.1).

(3.3) If, as a result of a notice of objection filed under section 48 or an appeal under section 50, the Provincial Minister has vacated or varied an assessment, reassessment, determination or redetermination made under subsection (3.1) in respect of a taxation year, the Provincial Minister may, notwithstanding subsection (1), exercise any of the Provincial Minister's powers described in subsection (3.1) in respect of any other taxation year to the extent that the exercise of the powers is reasonably related to the recalculation or additional calculation under section 38 or 39 of the *Mines and Minerals Act* referred to in subsection (3.1).

(3.4) The Provincial Minister may exercise the powers under subsection (3.3) within one year after the assessment, reassessment, determination or redetermination referred to in subsection (3.3) has been vacated or varied.

(4) Notwithstanding subsections (1) to (2), the Provincial Minister may make such assessments, reassessments and additional assessments of tax, interest and penalties and such determinations and redeterminations as are necessary to give effect to subsections 67.5(1) and 69(11) and section 143.2 of the federal Act as they are made applicable by this Act for any taxation year.

(4.1) Notwithstanding subsections (1), (1.02) and (2), the Provincial Minister shall assess or reassess interest and penalties payable by a corporation in respect of any taxation year as necessary in order to take into account a reallocation of amounts under section 39.2.

(4.2) Notwithstanding subsections (1), (1.02), (2), (3), (5) and (6), the Provincial Minister may make at any time such assessments, reassessments, determinations and redeterminations that are necessary where information is obtained that the conditions in subparagraph 86.1(2)(c)(iii) or (d)(iii) of the federal Act as it applies for the purposes of this Act are not, or are no longer, satisfied.

(4.3) Notwithstanding subsections (1), (1.02), (2), (3), (5) and (6), such assessments or reassessments of a

corporation's tax, interest or penalties payable under this Act for any taxation year shall be made as are necessary to give effect

- (a) to a certificate issued under subsection 33(1) of the *Cultural Property Export and Import Act* (Canada) or to a decision of a court resulting from an appeal made pursuant to section 33.1 of that Act, or
- (b) to a certificate issued under subsection 118.1(10.5) of the federal Act or to a decision of a court resulting from an appeal made pursuant to subsection 169(1.1) of the federal Act.

(5) Notwithstanding subsections (1), (2) and (3), if the result of an assessment or a decision on an appeal is to change a particular balance of a corporation for a particular taxation year, the Provincial Minister may or, if the corporation so requests in writing, shall, before the later of the expiration of the normal reassessment period in respect of a subsequent taxation year and the end of the day that is one year after the day on which all rights of objection and appeal expire or are determined in respect of the particular year, reassess the tax, interest or penalties payable by the corporation, redetermine an amount deemed to have been paid or to have become payable by the corporation or modify the amount of a refund or other amount payable to the corporation, under this Act in respect of the subsequent taxation year, but only to the extent that the reassessment or redetermination can reasonably be considered to relate to the change in the particular balance of the corporation for the particular year.

(5.1) Notwithstanding subsections (1) and (2), the Provincial Minister may at any time make an assessment, reassessment or additional assessment of tax for a taxation year, interest or penalties payable by a corporation where the corporation has not complied with section 85(4.2) or (4.4).

(6) For the purposes of subsection (5), a “balance” of a corporation for a taxation year is the income, taxable income, taxable income earned in Canada, amount taxable in Alberta or any loss of the corporation for the year or the tax or other amount payable by, any amount refundable to or any amount deemed to have been paid or to have become payable by, the corporation for the year.

(6.1) For the purposes of the definition of “balance” in subsection (6), a balance is deemed to include the values of H, P, Q, Y and Z as defined in section 26.7(1) and (1.2).

(7) Where, at any particular time as part of a series of transactions or events a corporation disposes of property after July 10, 1997 and before the coming into force of sections 14.1, 14.2 and 16.1 and a subsequent disposition of that property is made, or arrangements for the subsequent disposition of that property are made, before the day that is 3 years after the particular time, and the result of the series of transactions or events is that the aggregate amount of income arising from the disposition of that property by the corporation and from any subsequent disposition of that property by a subsequent owner included by the corporation and any subsequent owner in the computation of income for the purposes of the federal Act exceeds the aggregate amount of income included by the corporation and any subsequent owner in the computation of income in all the provinces, the Provincial Minister may assess or reassess tax of the corporation on the excess for the taxation year in which the corporation disposed of the property.

(8) Where subsection (7) applies and the property disposed of by the corporation is depreciable property, the Provincial Minister may assess or reassess the corporation

- (a) for the taxation year in which it disposed of the property on the basis that the proceeds of disposition in the calculation of undepreciated capital cost to the corporation of the prescribed class, to which the property was a part, is deemed for the purposes of this Act to equal the proceeds of disposition of the property for the purposes of the federal Act, if the proceeds of disposition for the purposes of the federal Act exceed the proceeds of disposition for the purposes of this Act, and
- (b) for any subsequent taxation year to the extent that the assessment or reassessment is consequential to the application of clause (a).

(9) Where, at any particular time as part of a series of transactions or events a partnership, at least one member of which is a corporation, disposes of property after July 10, 1997 and before the coming into force of sections 14.1, 14.2 and 16.1 and a subsequent disposition of that property is made, or arrangements for the subsequent disposition of that property are made, before the day that is 3 years after the particular time and the result of the series of transactions or events is that the aggregate amount of income, arising from the disposition of that property by the partnership and from any subsequent disposition of that property by a subsequent owner, included by the corporation to which this Act applies that is a member of the partnership and any subsequent owner in the computation of income for the purposes of the federal Act exceeds the aggregate amount of

income included by the corporation and any subsequent owner in the computation of income in all the provinces, the Provincial Minister may assess or reassess tax on the corporation on the excess for the taxation year of the corporation which includes the fiscal period in which the partnership disposed of the property.

(10) Where subsection (9) applies and the property disposed of by the partnership is depreciable property, the Provincial Minister may assess or reassess the corporation to which this Act applies that is a member of the partnership

- (a) for the taxation year which includes the fiscal period in which the partnership disposed of the property on the basis that the proceeds of disposition in the calculation of undepreciated capital cost to the partnership of the prescribed class, to which the property was a part, is deemed for the purposes of this Act to equal the proceeds of disposition for the purposes of the federal Act, if the proceeds of disposition for the purposes of the federal Act exceed proceeds of disposition for the purposes of this Act, and
- (b) for any subsequent taxation year to the extent that the assessment or reassessment is consequential to the application of clause (a).

(11) The Provincial Minister shall reassess a corporation's tax for a particular taxation year in order to take into account the application of paragraph (d) of the definition "excluded property" in subsection 142.2(1), or the application of subsection 142.6(1.6), of the federal Act, as they apply for the purposes of this Act, in respect of property held by the taxpayer, if

- (a) the corporation has filed for the particular taxation year the return required by section 36, and
- (b) the corporation has filed with the Minister of National Revenue the prescribed form referred to in subsection 152(6.2) of the federal Act on or before the filing-due date for the corporation's taxation year that
 - (i) if the filing is in respect of paragraph (d) of the definition "excluded property", includes the acquisition of control time referred to in that paragraph, and
 - (ii) if the filing is in respect of subsection 142.6(1.6) of the federal Act, immediately follows the particular taxation year.

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

(13) Notwithstanding subsections (1), (1.02), (2), (3), (5) and (5.1), the Provincial Minister may make any assessments, determinations and redeterminations that are necessary to give effect to section 72.12.

(14) Notwithstanding subsections (1), (2) and (3), the Provincial Minister may at any time assess a person in respect of any penalty payable by the person under section 37.2 or 73.01, and the provisions of this Part (including, for greater certainty, the provisions in respect of interest payable) apply, with any modifications that the circumstances require, as though the assessment had been made under subsection (1) or section 41 in respect of taxes payable under this Part.

RSA 2000 cA-15 s43;2001 c1 s31;2002 c28 ss26,34;
2004 c21 s9;2005 c25 ss8,17;2008 c29 s13;2009 c15 s11;2010 c2 s6;
2012 c4 s10;2014 c6 s1(30);2015 c21 Sched. 2 s1(14),(28),(29)

Deeming of federal amounts

43.01(1) The definitions in Division 3 of Part 6 of terms and expressions used in this section apply to this section.

(2) Where a corporation makes a claim for an Alberta SR&ED tax credit for a taxation year, for purposes of determining the eligible expenditures of the corporation for that year, the amount of federal expenditures of the corporation is deemed, for purposes of this section, to be the amounts included for purposes of the federal Act in the SR&ED qualified expenditure pool of the corporation at the end of its taxation year.

(3) A corporation is bound by any determination made by the Minister of National Revenue of the SR&ED qualified expenditure pool at the end of a taxation year under the federal Act in relation to a federal assessment action with respect to the corporation for any taxation year or by a decision of the Tax Court of Canada, the Federal Court of Canada or the Supreme Court of Canada where such federal assessment action or decision is final and all rights of objection and appeal have expired.

(4) Where at any time, in relation to a federal assessment action undertaken by the Minister of National Revenue with respect to a corporation for any taxation year, the conclusion of the Minister of National Revenue or the Tax Court of Canada, the Federal Court of Canada or the Supreme Court of Canada on an appeal from the federal assessment action, results in the SR&ED qualified expenditure pool at the end of a corporation's taxation year under the federal Act being determined to be different than the amount used by the corporation in determining its eligible expenditures for the purpose of claiming an Alberta SR&ED tax credit for that taxation year, the Provincial Minister may, notwithstanding section 43(1), (1.02), (2) and (3), assess the tax, interest, penalties or other amounts payable, or determine an amount deemed to have been paid or to have been paid as an overpayment under this Act by the corporation for that taxation year, but only to the extent that the assessment can reasonably be regarded as relating to the amount of eligible expenditures of the corporation for that taxation year and the entitlement of the corporation to an Alberta SR&ED tax credit for that taxation year.

(5) If a corporation files information with respect to the federal assessment action under subsection (4), the Provincial Minister may assess the tax, interest, penalties or other amounts payable, or determine an amount deemed to have been paid or to have been paid as an overpayment under this Act by the corporation in relation to the federal assessment action for any taxation year, not later than the later of 12 months after the corporation files the information with the Provincial Minister and the end of the assessment period set out in section 43(1)(c).

2008 c29 s14;2010 c2 s7

Assessments

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

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

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

2014 c6 s1(34)

Federal-based s72.1 assessments

43.1(1) When the Provincial Minister makes an assessment, reassessment or additional assessment that is based on a federal assessment action, the Provincial Minister shall designate the assessment, reassessment or additional assessment as being based on the federal action.

(2) Repealed 2015 c21 Sched. 2 s1(18).

RSA 2000 cA-15 s43.1;2002 c28 s34;2015 c21 Sched. 2 s1(18)

Reassessment re loss carry-backs

44(1) Where a corporation has filed for a particular taxation year the return required by section 36 and an amount is subsequently claimed by it for the year as a deduction of an amount under this Act,

- (a) by virtue of the application of section 41 of the federal Act, in respect of its listed-personal-property loss for a subsequent taxation year, or
- (b) by virtue of the application of section 111 of the federal Act in respect of a loss for a subsequent taxation year,

by filing a prescribed form with the Provincial Minister, on or before the day on or before which the corporation is required by section 36 to file a return for that subsequent taxation year or within 6 months after the end of that subsequent taxation year if no return is required to be filed because of section 36(1.1)(b) or (c), the Provincial Minister shall reassess the corporation's tax for any relevant taxation year (other than a taxation year preceding the particular taxation year) in order to take into account the deduction claimed.

(2) Where

- (a) a corporation has filed for a particular taxation year the return of income required by section 36,
- (b) the amount included in computing the corporation's income for the particular year under subsection

91(1) of the federal Act as it applies for the purposes of this Act is subsequently reduced because of a reduction in the foreign accrual property income of a foreign affiliate of the corporation for a taxation year (referred to in this clause as the “claim year”) of the affiliate that ends in the particular year, if the reduction in that foreign accrual property income is

- (i) attributable to a foreign accrual property loss, within the meaning assigned by subsection 5903(3) of the *Income Tax Regulations* (Canada) as it applies for the purposes of this Act, of the affiliate for a taxation year of the affiliate that ends in a subsequent taxation year of the corporation, and
- (ii) included in the description of F in the definition of foreign accrual property income in subsection 95(1) of the federal Act as it applies for the purposes of this Act in respect of the affiliate for the claim year,

and

(NOTE: The above clause (b) applies to taxation years commencing after November 30, 1999 and before August 19, 2011.)

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

- (i) the reduction is

- (A) attributable to a foreign accrual property loss, within the meaning assigned by subsection 5903(3) of the *Income Tax Regulations* (Canada) as it applies for the purposes of this Act, of the affiliate for a taxation year of the affiliate that ends in a subsequent taxation year of the corporation, and
- (B) included in the description of F in the definition of foreign accrual property income in subsection 95(1) of the federal Act as it applies for the purposes of this Act in respect of the affiliate for the claim year,

or

- (ii) the reduction is

- (A) attributable to a foreign accrual capital loss, within the meaning assigned by subsection 5903.1(3) of the *Income Tax Regulations* (Canada) as it applies for the purposes of this Act, of the affiliate for a taxation year of the affiliate that ends in a subsequent taxation year of the corporation, and
- (B) included in the description of F.1 in the definition of foreign accrual property income in subsection 95(1) of the federal Act as it applies for the purposes of this Act in respect of the affiliate for the claim year,

and

(NOTE: The above clause (b) applies to taxation years that end after August 19, 2011.)

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

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

RSA 2000 cA-15 s44;2002 c28 ss27,34;2014 c6 s1(35),(37)

Reassessment re: election on proceeds

44.1 Where a corporation has filed for a particular taxation year the return required by section 36 and the proceeds of disposition of property are subsequently reduced as a result of a valid election filed in accordance with section 14.1(3), 14.2(3) or 16.1(3), the Provincial Minister shall reassess the corporation’s tax for any

relevant taxation year in order to take into account the elected amount.

2001 c1 s32;2005 c25 s17

Reassessment re: excessive capital cost allowance

44.2 Where a corporation has filed for a particular taxation year the return required by section 36 and the capital cost allowance claimed by the corporation, or by the partnership of which the corporation is a member, is excessive as a result of a valid election filed in accordance with section 14.1(3), 14.2(3) or 16.1(3), the Provincial Minister shall reassess the corporation's tax for any relevant taxation year in order to take into account the elected amount.

2001 c1 s32;2005 c25 s17

Assessment deemed valid and binding

45(1) The Provincial Minister is not bound by a return or information supplied by or on behalf of a corporation, and in making an assessment may, notwithstanding the contents of a return or information so supplied, or notwithstanding that no return or information has been supplied, assess the tax payable under this Act and may determine the entitlement to and the amount, if any, of any refundable tax credits under this Act.

(2) An assessment is, subject to being varied or vacated on an objection or appeal under this Act and subject to a reassessment, deemed to be valid and binding notwithstanding any error, defect or omission in the assessment or in any proceeding under this Act relating to the assessment.

(3) The Provincial Minister may advance an alternative argument in support of an assessment at any time after the normal reassessment period unless, on an appeal under this Act,

- (a) there is relevant evidence that the corporation is no longer able to adduce without the permission of the court, and
- (b) it is not appropriate in the circumstances for the court to order that the evidence be adduced.

RSA 2000 cA-15 s45;2001 c1 s33;2002 c28 s34;2014 c13 s49

Payment of balance

46 If the Provincial Minister sends a notice of assessment of any amount payable by a corporation, that part of the amount then remaining unpaid is payable forthwith by the corporation to the Provincial Minister.

RSA 2000 cA-15 s46;2002 c28 s34

Overpayment of tax

47(1) For the purposes of this section, the "overpayment" of a corporation for a taxation year means the amount, if any, by which the aggregate of all amounts paid on account of the corporation's liability under this Act for the year exceeds the aggregate of all amounts payable by the corporation in respect of the year.

(2) If the return required to be filed by a corporation under section 36 for a taxation year has been filed within 3 years from the end of that year, the Provincial Minister

- (a) may, on or after sending the notice of assessment for the taxation year, refund without application for the refund any overpayment for the year, and
- (b) shall, with all due dispatch, make the refund referred to in clause (a) after sending the notice of assessment if application for it is made in writing by the corporation within the period within which the Provincial Minister would be allowed, under section 43(1) read without reference to clause (a) or under section 43(1.2), to assess tax payable under this Act by the taxpayer for the year.

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

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

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

- (c) the lesser of
 - (i) the aggregate of the amounts so paid and the value of the security, and
 - (ii) the amount so assessed

exceeds

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

(NOTE: The above clause (d) applies in respect of amounts assessed for taxation years ending after 2012 and before April 24, 2014.)

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

(NOTE: The above clause (d) comes into force on April 24, 2014.)

(2.2) Notwithstanding subsection (2.1), where, on application by the Provincial Minister made within 45 days after receipt by the Provincial Minister of a written request by a corporation for repayment of an amount or surrender of a security, a judge of the court is satisfied that there are reasonable grounds to believe that the collection of all or any part of an amount assessed in respect of the corporation would be jeopardized by the repayment of the amount or the surrender of the security to the corporation under subsection (2.1), the judge shall order that the repayment of the amount or a part of it not be made or that the security or part of it not be surrendered or make such other order as the judge considers reasonable in the circumstances.

(2.3) The Provincial Minister shall give 6 clear days' notice of an application under subsection (2.2) to the corporation in respect of which the application is made.

(2.4) Where the Provincial Minister makes an application under subsection (2.2), section 60.2(4), (10), (12) and (13) apply in respect of the application.

(2.5) Notwithstanding subsection (2), the Provincial Minister, on or after sending a notice of assessment for a taxation year, may refund any overpayment of a corporation for the year if an assessment was made under section 41(1.1) in respect of the corporation.

(3) Instead of making a refund or repayment that might otherwise be made under this section, the Provincial Minister may, if the corporation is liable or about to become liable to make another payment to Her Majesty in right of Alberta, apply the amount of the refund or repayment to that other liability and notify the corporation of that action.

(4) If under this section an amount in respect of a taxation year is refunded or repaid to a corporation or applied to another liability, the Provincial Minister shall pay or apply interest on the amount at the prescribed rate for the period beginning on the day that is the latest of

- (a) in the case of a refund or application of an overpayment, the day the overpayment arose,
 - (a.1) the corporation's balance-due day for the year,

- (b) the day on which the return of the corporation for the year was filed, and
- (c) in the case of a repayment of an amount in controversy, the day an overpayment equal to the amount of the repayment would have arisen if the aggregate of all amounts payable on account of the corporation's liability under this Act for the year were the amount by which
 - (i) the lesser of the aggregate of all amounts paid or applied on account of its liability under this Act for the year and the aggregate of all amounts assessed by the Provincial Minister as payable under this Act by the corporation for the year

exceeds

- (ii) the amount repaid,

and ending on the day the amount is refunded, repaid or applied.

(4.1) Repealed 1987 c36 s25.

(4.2) Interest required to be paid or applied under subsection (4) shall be paid out of or charged to the General Revenue Fund.

(4.21) Notwithstanding subsection (4), where

- (a) a reassessment is issued pursuant to section 43(1.2) or (1.21) in response to an assessment action,
- (b) all or part of the assessment action resulted from a response to a notice of objection filed with another jurisdiction by a corporation that was a large corporation in the taxation year to which the notice of objection relates, and
- (c) the corporation did not file a notice of objection with the Provincial Minister as required by section 48(1.01),

the interest payable under this section on any overpayment resulting from the reassessment shall be reduced by the lesser of

- (d) 5% of the interest as otherwise calculated, and
- (e) \$10 000.

(4.22) Notwithstanding section 43(1), the Provincial Minister may reassess interest at any time to give effect to subsection (4.21).

(4.3) If, at any particular time, interest has been paid to, or applied to a liability of, a corporation under subsection (4) or (4.31) in respect of an overpayment and it is determined at a subsequent time that the actual overpayment was less than the overpayment in respect of which interest was paid or applied, the following rules apply:

- (a) the amount by which the interest that has been paid or applied exceeds the interest, if any, computed in respect of the amount that is determined at the subsequent time to be the actual overpayment is deemed to be an amount, in this subsection referred to as "the amount payable", that became payable under this Act by the corporation at the particular time;
- (b) the corporation shall pay to the Provincial Minister interest at the prescribed rate on the amount payable computed from the particular time to the day of payment;
- (c) the Provincial Minister may, at any time, assess the corporation in respect of the amount payable and, where the Provincial Minister makes that assessment, this Act applies, with any necessary modifications, in respect of the assessment as if it had been made under section 43.

(4.31) Notwithstanding subsection (4), if the amount of an overpayment of a corporation for a taxation year is determined by reason of section 41(1.1) and an amount in respect of it is refunded to or applied to another liability of the corporation under subsection (2.5) or (3), the Provincial Minister shall pay or apply interest on it at the prescribed rate for the period beginning from the day that the Provincial Minister received, in a form satisfactory to the Provincial Minister, the relevant application or notification and ending on the day the

amount is refunded or applied.

(4.4) Where the Court of Queen's Bench, the Court of Appeal or the Supreme Court of Canada has, on the disposition of an appeal in respect of taxes, interest or a penalty payable by a corporation, or a refundable tax credit payable to a corporation under this Act,

- (a) referred an assessment back to the Provincial Minister for reconsideration and reassessment, or
- (b) varied or vacated an assessment,
- (c) repealed 1992 c2 s22,

the Provincial Minister shall with all due dispatch, whether or not an appeal from the decision of the Court has been or may be instituted,

- (d) where the assessment has been referred back to the Provincial Minister, reconsider the assessment and make a reassessment in accordance with the decision of the Court, unless otherwise directed in writing by the corporation, and
- (e) refund any overpayment resulting from the variation, vacation or reassessment,
- (f) repealed 1992 c2 s22,

and the Provincial Minister may repay any tax, interest or penalties, pay any refundable tax credit or surrender any security accepted for them by the Provincial Minister to that corporation or any other corporation that has filed another objection or instituted another appeal if, having regard to the reasons given on the disposition of the appeal, the Provincial Minister is satisfied that it would be just and equitable to do so.

(5) If, at any particular time, interest has been paid to, or applied to a liability of, a corporation pursuant to subsection (4) in respect of the repayment of an amount in controversy made to or applied to a liability of the corporation and it is determined at a subsequent time that the repayment or a part of the repayment is payable by the corporation, the following rules apply:

- (a) the interest so paid or applied on that part of the repayment that is determined at the subsequent time to be payable by the corporation is deemed to be an amount, in this subsection referred to as the "interest excess", that became payable by the corporation at the particular time;
- (b) the corporation shall pay to the Provincial Minister interest at the prescribed rate on the interest excess computed from the particular time to the day of payment;
- (c) the Provincial Minister may, at any time, assess the corporation in respect of the interest excess and, where the Provincial Minister makes such an assessment, this Part is applicable with respect to the assessment as if it had been made under section 43.

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

- (a) the deduction of an amount under this Act by virtue of the application of section 41 of the federal Act in respect of the corporation's listed-personal-property loss for a subsequent taxation year,
- (b) the exclusion of an amount from the corporation's income for the year under this Act by virtue of the application of section 49 of the federal Act in respect of the exercise of an option in a subsequent taxation year,
- (c) the deduction of an amount under this Act by virtue of the application of section 111 of the federal Act in respect of a loss for a subsequent taxation year, or
- (c.1) the reduction of the amount included in computing the corporation's income for the year under subsection 91(1) of the federal Act as it applies for the purposes of this Act because of a reduction referred to in section 44(2)(b) in the foreign accrual property income of a foreign affiliate of the corporation for a taxation year of the affiliate that ends in the year,

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

- (d) the first day immediately following that subsequent taxation year,
 - (e) the day on which the corporation's return under section 36 for that subsequent taxation year was filed,
 - (f) if an amended return for the taxation year or a prescribed form amending the corporation's return for the year was filed under this Act by virtue of the application of subsection 49(4) of the federal Act or section 44 of this Act, the day on which the amended return or prescribed form was filed,
 - (g) if, as a consequence of a request, the Provincial Minister reassessed the corporation's tax for the year to take into account the deduction or exclusion, the day on which the request was made, and
 - (h) if, as a consequence of an assessment action as defined in section 43(1.1), the Provincial Minister reassesses the corporation's tax for the year to take into account the exclusion or deduction and clauses (f) and (g) do not apply, the day on which the reassessment is issued.
- (7) Where a portion of a repayment made under subsection (2.1) or (4.4) or an amount applied under subsection (3) in respect of a repayment can reasonably be regarded as being in respect of a claim made by the corporation in an objection to or appeal from an assessment of tax for a taxation year for a deduction or exclusion described in subsection (6) in respect of a subsequent taxation year, interest shall not be paid or applied on the portion for any part of a period that is before the latest of the dates described in subsection (6) (d) to (g).

RSA 2000 cA-15 s47;2001 c1 s34;2002 c28 ss28,34;
 2005 c25 ss9,17;2013 c11 s1;2014 c6 s1(39),(42);
 2015 c21 Sched. 2 s1(28)

Small amounts owing

47.1(1) Notwithstanding the *Financial Administration Act*, if a notice of assessment or reassessment indicates an amount owing or a refund of less than the amount prescribed under subsection (3), the Provincial Minister may

- (a) in the case of an amount owing, not collect it, or
 - (b) in the case of a refund, not pay it unless specifically requested by the person to whom the amount is payable.
- (2) A request under subsection (1)(b) must be made no later than the day on which all rights of objection and appeal with respect to the assessment or reassessment for the taxation year expire.

(3) The Provincial Minister may by regulation prescribe the amount for the purpose of subsection (1).

2006 c10 s9

Notice of objection to assessment

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

(1.01) Notwithstanding subsection (1), a corporation that is a large corporation in a taxation year that objects to an assessment under this Act must serve on the Provincial Minister a notice of objection in the prescribed form on or before the day that is 90 days after the day of sending of the notice of assessment.

(1.1) Notwithstanding subsection (1), where at any time the Provincial Minister assesses tax, interest or penalties or other amounts payable under this Act by, or makes a determination or redetermination in respect of, a corporation

- (a) under section 41(1.1), (1.11) or (8), 43(1)(b)(i), (1.2), (3.1), (3.3), (4), (4.1) or (5), 44, 47(4.22) or (4.4) or 72.1(8) or in accordance with an order of a court vacating, varying or restoring the assessment or referring the assessment back to the Provincial Minister for reconsideration and reassessment,
- (b) under subsection (4) where the underlying objection relates to an assessment or a determination made under any of the provisions or circumstances referred to in clause (a), or
- (c) under subsection 12(2.2) of the federal Act as it applies for the purposes of this Act,

the corporation may object to the assessment or determination within 90 days after the day of sending of the

notice of assessment or determination but only to the extent that the reasons for the objection can reasonably be regarded

- (d) where the assessment or determination was made under section 41(8), as relating to any matter or conclusion specified in section 41(8)(a), (b) or (c), and
- (e) in any other case, as relating to any matter that gave rise to the assessment or determination

that was not conclusively determined by the court, and this subsection is not to be read or construed as limiting the right of the corporation to object to an assessment or a determination issued or made before that time.

(1.105) Repealed 2003 c34 s12.

(1.11) If a corporation that was a large corporation in a taxation year objects to an assessment under this Part for the year, the notice of objection shall

- (a) reasonably describe each issue to be decided,
- (b) specify in respect of each issue, the relief sought, expressed as the amount of a change in a balance, within the meaning assigned by section 43(6), or a balance of undeducted outlays, expenses or other amounts of the corporation, and
- (c) provide facts and reasons relied on by the corporation in respect of each issue.

(1.111) Repealed 2005 c25 s10.

(1.12) Notwithstanding subsection (1.11), if a notice of objection served by a corporation to which that subsection applies does not include the information required by subsection (1.11)(b) or (c) in respect of an issue to be decided that is described in the notice, the Provincial Minister may in writing request the corporation to provide the information, and subsection (1.11)(b) or (c) is deemed to be complied with in respect of the issue if, within 60 days after the request is made, the corporation submits the information in writing to the Provincial Minister.

(1.13) Notwithstanding subsections (1), (1.1) and (1.105), if under subsection (4) a particular assessment was made for a taxation year pursuant to a notice of objection served by a corporation that was a large corporation in the year, except where the objection was made to an earlier assessment made under any of the provisions or circumstances referred to in subsection (1.1)(a), the corporation may object to the particular assessment in respect of an issue

- (a) only if the corporation has complied with subsection (1.11) in the notice with respect to that issue, and
- (b) only with respect to the relief sought in respect of that issue as specified by the corporation in the notice.

(1.14) If a particular assessment is made under subsection (4) pursuant to an objection made by a corporation to an earlier assessment, subsection (1.13) does not limit the right of the corporation to object to the particular assessment in respect of an issue that was part of the particular assessment and not part of the earlier assessment.

(1.2) Notwithstanding subsection (1), a corporation shall not object to an assessment made under section 43(4.3) or 50(1.2) nor, for greater certainty, in respect of an issue for which the right of objection has been waived in writing by the corporation.

(2) A notice of objection under this section shall be served by being sent by registered letter addressed to the Provincial Minister.

(3) The Provincial Minister may accept a notice of objection under this section notwithstanding that it was not served in the manner required by subsection (2).

(4) Subject to subsection (4.1), on receipt of a notice of objection, the Provincial Minister shall

- (a) if the corporation indicates in the notice of objection that it wishes to appeal immediately to the court

and that it waives reconsideration of the assessment and the Provincial Minister consents, consent to an immediate appeal, or

(b) with all due dispatch reconsider the assessment and vacate, confirm or vary the assessment or reassess and the Provincial Minister shall notify the corporation of the Provincial Minister's action in writing.

(4.1) Where the Provincial Minister is served with a notice of objection and the Provincial Minister designates

- (a) the determination, assessment, reassessment or additional assessment that gave rise to the notice of objection, or
- (b) the notice of objection

as being based on a federal assessment action, the Provincial Minister's duties under subsection (4) do not arise until all rights of appeal in respect of the federal assessment action have been exhausted or extinguished.

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

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

then

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

(5) If the Provincial Minister consents to an immediate appeal under subsection (4)(a), the Provincial Minister is deemed for the purpose of section 50 to have confirmed the assessment to which the notice relates, and the corporation may, within 90 days from the day notice that the Provincial Minister has consented to an immediate appeal was sent to the corporation, appeal to the court pursuant to section 50.

(6) The limitations imposed under section 43(1) and (1.02) do not apply to a reassessment made under subsection (4).

(6.1) If

- (a) the Provincial Minister becomes aware that there has been an assessment action in respect of a taxation year of a corporation before the corporation files information under section 36.2(1) in respect of that assessment action, and
- (b) the Provincial Minister is, in respect of that taxation year, required to respond, in accordance with subsection (4)(b), to a notice of objection received from the corporation,

the Provincial Minister may, at the same time as the Provincial Minister responds pursuant to subsection (4)(b), exercise the powers under section 43(1.2)(c), (d) and (e) in respect of the taxation year.

(7) If a corporation has served a notice of objection to an assessment in accordance with this section and the

Provincial Minister then reassesses for the taxation year in respect of which the notice of objection was served or issues an additional assessment in respect of that year and notifies the corporation of the Provincial Minister's action by registered letter, the corporation may without serving a notice of objection to the reassessment or the additional assessment,

- (a) appeal to the court in accordance with section 50, or
- (b) if an appeal to the court has been instituted with respect to the assessment, amend that appeal by joining to it an appeal in respect of the reassessment or additional assessment in the manner and on the terms, if any, that the court may direct.

RSA 2000 cA-15 s48;2001 c1 s35;2002 c28 ss29,34;2003 c34 s12;
2004 c21 s10;2005 c25 ss10,17;2008 c29 s15;2009 c15 s12;
2010 c2 s14;2012 c4 s11;2013 c11 s1;2014 c6 s1(43);
2015 c21 Sched. 2 s1(28),(29)

Extension of time by Provincial Minister

48.1(1) Where no notice of objection to an assessment has been served under section 48, nor any request made under section 72.1(6), within the time limited by those provisions for doing so, the taxpayer may apply to the Provincial Minister to extend the time for serving the notice of objection or making the request.

(2) An application made under subsection (1) shall set out the reasons why the notice of objection was not served or the request was not made, as the case may be, within the time otherwise limited by this Act for doing so.

(3) An application under subsection (1) shall be delivered or sent to the Provincial Minister and accompanied with a copy of the notice of objection or of the request.

(4) The Provincial Minister may accept an application under this section notwithstanding that it was not made in the manner required by subsection (3).

(5) On receipt of an application made under subsection (1), the Provincial Minister shall, with all due dispatch, consider the application and grant or refuse it, and shall notify the corporation of the decision in writing.

(6) Where an application made under subsection (1) is granted, the notice of objection or the request is deemed to have been served or made on the day the decision of the Provincial Minister is sent to the corporation.

(7) No application shall be granted under this section unless

- (a) the application is made within one year after the expiration of the time otherwise limited by this Act for serving a notice of objection or making a request, as the case may be, and
- (b) the corporation demonstrates that
 - (i) within the time otherwise limited by this Act for serving the notice or making such a request, as the case may be, the corporation
 - (A) was unable to act or to instruct another to act in the corporation's name, or
 - (B) intended in good faith to object to the assessment or make the request,
 - (ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and
 - (iii) the application was made as soon as circumstances permitted.

RSA 2000 cA-15 s48.1;2002 c28 s34;
2015 c21 Sched. 2 s1(29)

Extension of time by court

48.2(1) A corporation that has made an application under section 48.1 may apply to the court to have the application granted after either

- (a) the Provincial Minister has refused or is deemed to have refused the application, or

- (b) 90 days have elapsed after service of the application under section 48.1 and the Provincial Minister has not notified the corporation of the Provincial Minister's decision,

but no application under this section may be made after the expiration of 90 days after the day on which notification of the decision was sent to the corporation.

(2) An application under subsection (1) shall be made by serving on the Provincial Minister a copy of the documents referred to in section 48.1(3) and the notification, if any, referred to in section 48.1(5) and by filing a copy of each with the clerk of the court.

(3) The court may grant or dismiss an application made under subsection (1) and, in granting an application, may impose such terms as it considers just or order that the notice of objection is deemed to have been served on the date of its order.

(4) No application shall be granted under this section unless

- (a) the application was made under section 48.1(1) within one year after the expiration of the time otherwise limited by this Act for serving a notice of objection or making a request, as the case may be, and
- (b) the corporation demonstrates that
 - (i) within the time otherwise limited by this Act for serving the notice or making such a request, as the case may be, the corporation
 - (A) was unable to act or to instruct another to act in the corporation's name, or
 - (B) intended in good faith to object to the assessment or make the request,
 - (ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and
 - (iii) the application was made under section 48.1(1) as soon as circumstances permitted.

RSA 2000 cA-15 s48.2;2002 c28 s34;
2015 c21 Sched. 2 s1(29)

Legal representatives

49(1) For the purposes of this Act, where a person is a legal representative of a corporation at any time,

- (a) the legal representative is jointly and severally liable with the corporation
 - (i) to pay each amount that is payable under this Act by the corporation at or before that time and that remains unpaid, to the extent that the legal representative is at that time in possession or control, in the capacity of legal representative, of property that belongs or belonged to, or that is or was held for the benefit of, the corporation, and
 - (ii) to perform any obligation or duty imposed under this Act on the corporation at or before that time and that remains outstanding, to the extent that the obligation or duty can reasonably be considered to relate to the responsibilities of the legal representative acting in that capacity,

and

- (b) any action or proceeding in respect of the corporation taken under this Act at or after that time by the Provincial Minister may be so taken in the name of the legal representative acting in that capacity and, when so taken, has the same effect as if it had been taken directly against the corporation and, if the corporation no longer exists, as if the corporation continued to exist.

(2) Every legal representative (other than a trustee in bankruptcy) of a corporation shall, before distributing to one or more persons any property in the possession or control of the legal representative acting in that capacity, obtain a certificate from the Provincial Minister by applying for one in the prescribed form, certifying that all amounts

- (a) for which the corporation is or can reasonably be expected to become liable under this Act at or before the time the distribution is made, and

- (b) for the payment of which the legal representative is or can reasonably be expected to become liable in that capacity as the legal representative

have been paid or that security for the payment of the amounts has been accepted by the Provincial Minister.

(3) If a legal representative (other than a trustee in bankruptcy) of a corporation distributes to one or more persons property in the possession or control of the legal representative, acting in that capacity, without obtaining a certificate under subsection (2) in respect of the amounts referred to in that subsection,

- (a) the legal representative is personally liable for the payment of those amounts to the extent of the value of the property distributed,
- (b) the Provincial Minister may at any time assess the legal representative in respect of any amount payable because of this subsection, and
- (c) the provisions of this Act (including, for greater certainty, the provisions in respect of interest payable) apply, with any modifications that the circumstances require, to an assessment made under this subsection as though it had been made under section 41 or 43 in respect of taxes payable under this Act.

(4) For the purposes of subsections (2) and (3), an appropriation by a legal representative of a corporation of property in the possession or control of the legal representative acting in that capacity is deemed to be a distribution of the property to a person.

RSA 2000 cA-15 s49;2001 c1 s36;2005 c25 s17;2014 c6 s1(45)

Liability in respect of transfers by insolvent corporations

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

(2) If

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

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

(2.1) If a corporation or a partnership of which a corporation subject to tax under this Act is a member (referred to in this subsection as the "corporate partner") is deemed by subsection 69(11) of the federal Act, as it applies for the purposes of this Act, to have disposed of a property at any time for proceeds of disposition equal to its fair market value at the time, the person referred to in that subsection to whom a benefit described in that subsection was available in respect of a subsequent disposition of the property or property substituted for the property is jointly and severally liable with the corporation or the corporate partner to pay a part of the

corporation's or the corporate partner's liabilities under this Act in respect of each taxation year equal to the amount determined by the formula

$A - B$

where

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

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

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

- (a) the amount, if any, by which the fair market value of the property at the time it was transferred exceeds the fair market value at that time of the consideration given for the property, and
- (b) the total of all amounts each of which is an amount that the transferor is liable to pay under this Act (including, for greater certainty, an amount that the transferor is liable to pay under this section, regardless of whether the Provincial Minister has made an assessment under subsection (3) for that amount or not) in or in respect of the taxation year in which the property was transferred or any preceding taxation year,

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

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

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

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

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

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

Division 3

Appeals

Appeal

50(1) Subject to subsection (1.11), a corporation that has served notice of objection to an assessment in accordance with section 48 may appeal to the court to have the assessment vacated or varied after

- (a) the Provincial Minister has confirmed the assessment or reassessed,
- (b) in the case of a notice of objection to a determination, assessment, reassessment or additional assessment that the Provincial Minister has designated as being based on a federal assessment action, 90 days have elapsed after all rights of appeal in respect of the federal assessment action have been exhausted or extinguished and the Provincial Minister has not notified the corporation that the Provincial Minister has vacated or confirmed the determination, assessment, reassessment or additional assessment or has reassessed, or
- (c) in the case of any other notice of objection, 90 days have elapsed after service of the notice of objection and the Provincial Minister has not notified the corporation that the Provincial Minister has vacated or confirmed the assessment or has reassessed,

but no appeal under this section may be instituted after the expiration of 90 days from the day notice that the Provincial Minister has confirmed the assessment or reassessed was sent to the corporation under section 48.

(1.1) Notwithstanding subsection (1), where at any time the Provincial Minister assesses tax, interest, penalties or other amounts payable under this Act by, or makes a determination in respect of, a corporation

- (a) under section 41(1.1), (1.11) or (8), 43(1)(b)(i), (1.2), (3.1), (3.3), (4) or (5), 44, 47(4.4) or 72.1(8) or in accordance with an order of a court vacating, varying or restoring the assessment or referring the assessment back to the Provincial Minister for reconsideration and reassessment,
- (b) under section 48(4) where the underlying objection relates to an assessment or a determination made under any of the provisions or circumstances referred to in clause (a), or
- (c) under subsection 12(2.2) of the federal Act as it is made applicable for the purposes of this Act,

the corporation may appeal to the court within the time limit specified in subsection (1) but only to the extent that the reasons for the appeal can reasonably be regarded

- (d) where the assessment or determination was made under section 41(8), as relating to any matter or conclusion specified in section 41(8)(a), (b) or (c), and
- (e) in any other case, as relating to any matter that gave rise to the assessment or determination

that was not conclusively determined by the court, and this subsection is not to be read or construed as limiting the right of the corporation to appeal from an assessment or a determination issued or made before that time.

(1.11) Where the Provincial Minister has made a designation pursuant to section 48(4.1), the corporation is not entitled to appeal to the court if the Provincial Minister has confirmed or issued

- (a) an assessment, reassessment or additional assessment of tax, interest or penalties,
- (b) a determination or redetermination of a loss, or
- (c) a notice that no tax is payable,

that deals with the same issues in the same manner as a federal assessment action in respect of which, or which results after, all of a corporation's rights of appeal under the federal Act have been exhausted or extinguished.

(1.2) Notwithstanding section 43, for the purpose of disposing of an appeal made under this Act, the Provincial Minister may at any time, with the consent in writing of the corporation, reassess tax, interest, penalties or other amounts payable under this Act by the corporation.

(1.3) Division 2 applies to a reassessment made under subsection (1.2) as if it had been made under section 43.

(2) An appeal to the court shall be instituted by filing a notice of appeal with the clerk of the court at the judicial centre closest to any place where the corporation appealing has a permanent establishment and serving on the Provincial Minister a copy of the filed notice of appeal.

(2.1) Notwithstanding subsections (1) and (1.1), if a corporation that was a large corporation in a taxation year served a notice of objection to an assessment under this Act for the year, the corporation may appeal to the court to have the assessment vacated or varied only with respect to

- (a) an issue in respect of which the corporation has complied with section 48(1.11) in the notice, or
- (b) an issue described in section 48(1.14) where the corporation did not, because of section 48(7), serve a notice of objection to the assessment that gave rise to the issue

and, in the case of an issue described in clause (a), the corporation may so appeal only with respect to the relief sought in respect of the issue as specified by the corporation in the notice.

(2.2) Notwithstanding subsections (1) and (1.11), for greater certainty a corporation may not appeal to the court to have an assessment under this Act vacated or varied in respect of an issue for which the right of objection or appeal has been waived in writing by the corporation.

(3) A notice of appeal shall be served on the Provincial Minister by being sent by registered letter addressed to the Provincial Minister.

(4) The notice of appeal shall have attached to it a copy of the notice of objection and, for the purposes of section 53, is deemed to be a statement of claim.

RSA 2000 cA-15 s50;2001 c1 s38;2002 c28 s34;
2009 c53 s15;2010 c2 ss8,14;2012 c4 s12;2013 c11 s1;
2015 c21 Sched. 2 s1(29)

Extension of time to appeal

50.1(1) Where an appeal to the court has not been instituted by a corporation under section 50 within the time limited by that section for doing so, the corporation may make an application to the court for an order extending the time within which the appeal may be instituted, and the court may make an order extending the time for appealing and may impose such terms as it considers just.

(2) An application made under subsection (1) shall set out the reasons why the appeal was not instituted within the time limited by section 50 for doing so.

(3) An application under subsection (1) shall be made by serving on the Provincial Minister a copy of the application and a copy of the notice of appeal and by filing a copy of each with the clerk of the court.

(4) No order shall be made under this section unless

- (a) the application is made within one year after the expiration of the time limited by section 50 for appealing, and
- (b) the corporation demonstrates that
 - (i) within the time otherwise limited by section 50 for appealing, the corporation
 - (A) was unable to act or to instruct another to act in the corporation's name, or
 - (B) intended in good faith to appeal,
 - (ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application,
 - (iii) the application was made as soon as circumstances permitted, and
 - (iv) there are reasonable grounds for the appeal.

RSA 2000 cA-15 s50.1;2002 c28 s34

Reply to notice of appeal

51(1) The Provincial Minister shall, within 60 days from the day the notice of appeal is received or within any further time that the court may either before or after the expiration of that time allow, serve on the

appellant and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of any further allegations of fact and of any applicable statutory provisions and any reasons the Provincial Minister intends to rely on.

(2) The court may strike out a notice of appeal or any part of the notice for failure to comply with section 50 and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out.

(3) The court may strike out

- (a) any part of a reply for failure to comply with this section or permit the amendment of a reply, or
- (b) a reply for failure to comply with this section and order a new reply to be filed within a time that it considers appropriate.

(4) If a notice of appeal is struck out for failure to comply with section 50 and a new notice of appeal is not filed as and when permitted by the court, the court may dismiss the appeal.

(5) If a reply is not filed as required by this section or is struck out under this section and a new reply is not filed as ordered by the court within the time ordered, the court may dispose of the appeal ex parte or after a hearing on the basis that the allegations of fact contained in the notice of appeal are true.

RSA 2000 cA-15 s51;2002 c28 s34

Powers of court on appeal

52(1) On the filing of the material referred to in sections 50 and 51(1), (2) and (3), the matter is deemed to be an action in the court.

(2) A fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in any manner and on any terms that the court may direct.

(2.1) If the court disposes of an appeal by a corporation in respect of an amount payable under this Act or an appeal by a corporation has been discontinued or dismissed without trial, the court may, on the application of the Provincial Minister and whether or not it awards costs, order the corporation to pay to the Provincial Minister an amount not exceeding 10% of any part of the amount in controversy in respect of which the court determines that there were no reasonable grounds for the appeal if, in the opinion of the court, one of the main purposes of instituting or maintaining any part of the appeal was to defer the payment of any amount payable under this Act.

(3), (4), (5) Repealed 1992 c2 s27.

RSA 2000 cA-15 s52;2002 c28 s34

Practice and procedure

53 Except as provided in the regulations, the practice and procedure of the court, including the right of appeal and the practice and procedure relating to appeals to the Court of Appeal or the Supreme Court of Canada, apply to every matter deemed to be an action under section 52, and every judgment and order given or made in each such action may be enforced in the same manner and by like process as a judgment or order given or made in an action commenced in the court.

RSA 1980 cA-17 s53

Variation of assessment

54 An assessment shall not be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of a person in the observation of a directory provision of this Act or of the federal Act where the provisions of that Act apply in respect of an action under this Act.

RSA 1980 cA-17 s54

Division 4 Administration and Enforcement

Provincial Minister administers Act

55(1) The Provincial Minister shall administer and enforce this Act and control and supervise all persons employed to carry out or enforce this Act.

(2) The Provincial Minister may extend the time for making a return under this Act.

(3) The Provincial Minister may, if the Provincial Minister considers it advisable in a particular case, accept security for payment of debts due to Her Majesty in right of Alberta, within the meaning of section 57, by way of mortgage or other charge of any kind on property of the taxpayer or any other person or by way of guarantee from other persons.

(3.1) Where a corporation has objected to or appealed from an assessment under this Act, the Provincial Minister shall, while the objection or appeal is outstanding, accept adequate security furnished by or on behalf of the corporation for payment of the amount in controversy except to the extent that the Provincial Minister may collect the amount because of section 60.1(4.1).

(3.2) If at any time a corporation requests in writing that the Provincial Minister surrender any security accepted by the Provincial Minister under subsection (3) or (3.1), the Provincial Minister shall surrender the security to the extent that the value of the security exceeds the aggregate of amounts payable under this Act by the corporation at that time.

(3.3) The Provincial Minister shall accept adequate security furnished by or on behalf of a corporation that is a member institution in relation to a deposit insurance corporation as defined in subsection 137.1(5) of the federal Act, for payment of

(a) the tax payable under this Act by the corporation for a taxation year to the extent that the amount of that tax exceeds the amount that that tax would be if no amount that the corporation is obliged to repay to the deposit insurance corporation were included under paragraph 137.1(10)(a) or (b) of the federal Act as made applicable for the purposes of this Act in computing the corporation's income for the year or a preceding taxation year, and

(b) interest payable under this Act by the corporation on the amount determined under clause (a),

until the earlier of

(c) the day on which the corporation's obligation referred to in clause (a) to repay the amount to the deposit insurance corporation is settled or extinguished, and

(d) the day that is 10 years after the end of the year.

(3.4) The adequacy of security furnished by or on behalf of a corporation under subsection (3.3) shall be determined by the Provincial Minister and the Provincial Minister may require additional security to be furnished from time to time by or on behalf of the corporation if the Provincial Minister determines that the security that has been furnished is no longer adequate.

(4) A person employed in connection with the administration or enforcement of this Act may in the course of the person's employment, if the person is designated by the Provincial Minister for the purpose, administer oaths and take and receive affidavits, declarations and affirmations for the purposes of or incidental to the administration or enforcement of this Act or the regulations and every person so designated has for those purposes all the powers of a commissioner for oaths.

(5), (5.1), (6) Repealed 1992 c2 s28.

RSA 2000 cA-15 s55;2002 c28 s34;2015 c21 Sched. 2 s1(19)

Collection agreement

55.01(1) The Provincial Minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the Government of Alberta, enter into a collection agreement with the Government of Canada under which the Government of Canada will collect income taxes payable under Part 1 on behalf of the Government of Alberta and will make payments to the Government of Alberta in respect of the taxes so collected, in accordance with the terms and conditions the collection agreement prescribes.

(2) The Provincial Minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the Government of Alberta, enter into an agreement amending the terms and conditions of a collection agreement entered into under subsection (1).

(3) When a collection agreement is entered into, the Minister of National Revenue, on behalf of or as agent for the Provincial Minister, may employ all the powers and perform all the duties of the Provincial Minister under this Act and exercise any discretion that the Provincial Minister has under this Act, including the discretion to refuse to permit the production in judicial or other proceedings in Alberta of any document the

production of which is not, in the opinion of the Minister, in the interests of public policy.

(4) When a collection agreement is entered into, the Deputy Minister of National Revenue for Taxation of Canada may

- (a) employ all the powers and perform the duties of the Minister of National Revenue and exercise any discretion that the Minister has under subsection (3) or otherwise under this Act, and
- (b) designate officers of the Minister's department to carry out functions, duties and powers that are similar to those that are exercised by them on the Minister's behalf under the federal Act.

RSA 2000 cA-15 s55.01;2002 c28 s34

Waiver or cancellation of penalties or interest

55.1 Notwithstanding the *Financial Administration Act*, the Provincial Minister may waive or cancel all or any portion of any penalty or interest payable under this Act by the taxpayer, or refund any portion of any penalty or interest paid under this Act by the taxpayer,

- (a) at any time, if the waiver is in response to an application by the taxpayer within the time set out in clause (b)(i) or (ii), or
- (b) in any other case, on or before the later of
 - (i) the day that is 10 calendar years after the end of the taxation year to which the interest or penalty relates, and
 - (ii) the day that is 12 months from the date the interest and penalty is assessed.

RSA 2000 cA-15 s55.1;2002 c28 s34;2006 c10 s10;
2010 c2 s9

Regulations

56(1) The Lieutenant Governor in Council may make regulations

- (a) prescribing anything that by this Act is to be prescribed or is to be determined or regulated by regulation;
- (b) providing in any case of doubt the circumstances in which and the extent to which the federal regulations apply;
- (c) prescribing the evidence required to establish facts relevant to assessments under this Act;
- (d) requiring any class of corporations to make information returns respecting any class of information required in connection with assessments under this Act;
- (e) prescribing the allocation of payments received by the Provincial Minister under this Act among taxes, repayments of overpayments of refundable tax credits, interest and penalties;
- (f) authorizing the Minister responsible for the *Mines and Minerals Act* to determine any component or value in the calculation of a royalty tax credit under Part 6 or a royalty credit under Part 11;
- (g) respecting the collection, use and disclosure of information, including personal information, under this Act;
- (h) repealed 2015 c21 Sched. 2 s1(20);
- (i) respecting Alberta QET tax credits, including, without limitation, regulations
 - (i) respecting the conditions on which a corporation is entitled to claim an Alberta QET tax credit for a taxation year, and
 - (ii) respecting the application of Alberta QET tax credits against any tax, interest or penalties owing by a corporation to Her Majesty in right of Alberta.

(2) Except to the extent that they are inconsistent with any regulation made under subsection (1) or are expressed by any regulation made under subsection (1) to be inapplicable, the regulations made under a provision of the federal Act apply, with all necessary modifications, for the purposes of this Act with respect

to all matters provided for in that provision.

(3) If a regulation made under the federal Act is applicable with all necessary modifications it has, subject to subsection (4), no effect for the purposes of this Act unless it has been published in the Canada Gazette.

(4) A regulation made under this Act or a regulation made under the federal Act and that is applicable with all necessary modifications shall, if it so provides, be effective with reference to a period before it was made.

(5) Without limiting the generality of subsection (1), a regulation made under subsection (1)(a) prescribing a rate of interest for the purposes of this Act may

- (a) prescribe a rate of interest for any taxation year that is before or after the taxation year in which the regulation comes into force, and
- (b) provide that the prescribed rate applies to assessments or reassessments issued after a date specified in the regulation.

RSA 2000 cA-15 s56;2002 c28 s34;2005 c25 s12;
2010 c2 s10;2012 c4 s13;2014 c6 s1(50); 2015 c21 Sched. 2 s1(20)

Taxes, etc. debt due to Crown

57 All taxes, interest, excess payments of any credit to the taxpayer, penalties, costs and other amounts payable under this Act are debts due to Her Majesty in right of Alberta and are recoverable as such in any court of competent jurisdiction or in any other manner provided by this Act.

RSA 1980 cA-17 s57;1981 c8 s18

Limitations Act

57.1 The *Limitations Act* does not apply to the Crown with respect to any matter arising under this Act.

2001 c13 s1

Certification of amount payable

58(1) An amount payable under this Act that has not been paid or that part of an amount payable under this Act that has not been paid may be certified by the Provincial Minister.

(a), (b) repealed 1986 c1 s27.

(2) A certificate made under this section shall, on production to the court or any other court of competent jurisdiction, be registered in the court and when registered has the same force and effect and all proceedings may be taken as if the certificate were a judgment obtained in that court for a debt of the amount specified in the certificate together with interest to the day of payment as provided for in this Act.

(3) All reasonable costs and charges attendant on the registration of the certificate are recoverable as if they had been certified and the certificate had been registered under this section.

RSA 2000 cA-15 s58;2002 c28 s34

59 Repealed 1983 c66 s14.

Powers of Provincial Minister

60(1) If the Provincial Minister has knowledge or suspects that a person is or will be, within one year, liable to make any payment to another person liable to make a payment under this Act (in this section referred to as the “tax debtor”), the Provincial Minister may, by written notice, require the person to pay the money otherwise payable to the tax debtor in whole or in part to the Provincial Minister on account of the tax debtor’s liability under this Act.

(1.1) Without limiting the generality of subsection (1), if the Provincial Minister has knowledge or suspects that within 90 days

- (a) a bank, credit union, trust company or other similar person (in this section referred to as the “institution”) will lend or advance money to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by, a tax debtor who is indebted to the institution and who has granted security in respect of the indebtedness, or
- (b) a person, other than an institution, will lend or advance money to, or make a payment on behalf of, a tax debtor who the Provincial Minister knows or suspects

(i) is employed by, or is engaged in providing services or property to, that person or was or will be, within 90 days, so employed or engaged, or

(ii) if that person is a corporation, is not dealing at arm's length with that person,

the Provincial Minister may by written notice require the institution or person, as the case may be, to pay in whole or in part to the Provincial Minister on account of the tax debtor's liability under this Act the money that would otherwise be so lent, advanced or paid, and any money so paid to the Provincial Minister is deemed to have been lent, advanced or paid, as the case may be, to the tax debtor.

(1.2) If a person or institution that has been issued a notice under subsection (1) or (1.1) is liable to make a payment jointly to the tax debtor and one or more persons, for the purposes of this section it is deemed that

(a) the money payable is divided into as many equal portions as there are persons who are owed the money jointly, and

(b) the tax debtor is the unconditional and sole owner of one portion of the money.

(1.3) The Provincial Minister, the tax debtor and any person who is owed the money jointly with the tax debtor may, within 30 days of the notice issued under subsection (1) or (1.1), as the case may be, apply to the court

(a) for an order that the tax debtor is entitled to a smaller or greater portion of the money, and

(b) for appropriate relief.

(1.4) Notice of an application under subsection (1.3) must be served,

(a) if the applicant is the tax debtor or a person who is owed the money jointly with the tax debtor, on all the other persons who are owed the money jointly and the Provincial Minister, or

(b) if the applicant is the Provincial Minister, on all the persons who are owed the money jointly.

(2) The receipt of the Provincial Minister for money paid under this section is a good and sufficient discharge of the original liability to the extent of that payment.

(3) A person who, after receiving notice pursuant to subsection (1), has discharged any liability to a tax debtor without complying with a requirement under this section is liable to pay to Her Majesty in right of Alberta an amount equal to the liability discharged or the amount that the person was required under this section to pay to the Provincial Minister, whichever is the lesser.

(3.1) Every institution or other person that fails to comply with a requirement under subsection (1.1) with respect to money to be lent, advanced or paid is liable to pay to the Provincial Minister an amount equal to the lesser of

(a) the total of money so lent, advanced or paid, and

(b) the amount that the institution or person was required under that subsection to pay to the Provincial Minister.

(4) If the person who is or is about to become indebted or liable carries on business under a name or style other than the person's own name, the notice under subsection (1) or (1.1) may be addressed to the name or style under which the person carries on business and, in the case of personal service, is deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(5) If the persons who are or are about to become indebted or liable carry on business in partnership, the notice under subsection (1) or (1.1) may be addressed to the partnership name and, in the case of personal service, is deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

RSA 2000 cA-15 s60;2002 c28 s34;2009 c15 s13

Restrictions on collection

60.1(1) If a corporation is liable for the payment of an amount assessed under this Act, in this subsection referred to as the "unpaid amount", other than an amount assessed under section 50(1.2), the Provincial

Minister shall not, for the purpose of collecting the unpaid amount,

- (a) commence legal proceedings in the court,
- (b) certify the unpaid amount under section 58, or
- (c) require a person to make a payment under section 60,

until after the day that is 90 days after the day of the sending of the notice of assessment.

(2) If a corporation has served a notice of objection under this Act to an assessment of an amount payable under this Act, the Provincial Minister shall not, for the purpose of collecting the amount in controversy, take any of the actions described in subsection (1)(a) to (c) until after the day that is 90 days after the day on which notice is sent to the corporation that the Provincial Minister has confirmed or varied the assessment.

(3) If a corporation has appealed to the court from an assessment of an amount payable under this Act, the Provincial Minister shall not, for the purpose of collecting the amount in controversy, take any of the actions described in subsection (1)(a) to (c) before the day on which the judgment of the court takes effect or the day on which the corporation discontinues the appeal.

(4) If the Provincial Minister is notified that

- (a) proceedings have been instituted in the Tax Court of Canada under section 173 of the federal Act, or
- (b) the Minister of National Revenue has applied to the Tax Court of Canada under section 174 of the federal Act,

the Provincial Minister shall not take any of the actions described in subsection (1)(a) to (c) for the purpose of collecting that part of an amount assessed, the liability for payment of which will be affected by the determination of the question that is the subject of the proceedings or application, before the day on which the question is determined by that court.

(4.1) If an amount has been assessed under this Act in respect of a corporation for a taxation year in which it was a large corporation, or in respect of a particular amount claimed under section 110.1 of the federal Act as it applies for the purposes of this Act where the particular amount was claimed in respect of a tax shelter, subsections (1) to (4) do not limit any action of the Provincial Minister to collect

- (a) at any time on or before the particular day that is 90 days after the day of the sending of the notice of assessment, 1/2 of the amount so assessed, and
- (b) at any time after the particular day, the amount, if any, by which the amount so assessed exceeds the total of
 - (i) all amounts collected before that time with respect to the assessment, and
 - (ii) 1/2 of the amount in controversy at that time.

(5) Notwithstanding any other provision in this section, if a corporation has served a notice of objection under this Act to an assessment or has appealed to the Court of Queen's Bench from the assessment and agrees in writing with the Provincial Minister to delay proceedings on the objection or appeal, as the case may be, until judgment has been given in another action before the Court of Queen's Bench, the Court of Appeal, the Tax Court of Canada, the Federal Court of Appeal or the Supreme Court of Canada in which the issue is the same or substantially the same as that raised in the objection or appeal of the corporation, the Provincial Minister may take any of the actions described in subsection (1)(a) to (c) for the purpose of collecting the amount assessed, or a part of the amount, determined in a manner consistent with the decision or judgment made in the other action at any time after the Provincial Minister notifies the corporation in writing that

- (a) the decision has been made by the Court of Queen's Bench in that action,
- (b) the decision has been made by the Court of Appeal in that action,
- (c) the decision has been made by the Tax Court of Canada in that action,
- (d) judgment has been pronounced by the Federal Court of Appeal in that action, or

(e) judgment has been delivered by the Supreme Court of Canada in that action,
as the case may be.

RSA 2000 cA-15 s60.1;2001 c1 s39;2002 c28 s34;
2005 c25 s17;2013 c11 s1;2014 c6 s1(51);
2015 c21 Sched. 2 s1(28),(29)

Amounts in jeopardy

60.2(1) In this section, “judge” means a judge of the court.

(2) Notwithstanding section 60.1, where, on ex parte application by the Provincial Minister, a judge is satisfied that there are reasonable grounds to believe that the collection of all or any part of an amount assessed in respect of a corporation would be jeopardized by a delay in the collection of it, the judge shall, on such terms as the judge considers reasonable in the circumstances, authorize the Provincial Minister to take forthwith any of the actions described in section 60.1(1) with respect to the amount.

(3) An authorization under subsection (2) in respect of an amount assessed in respect of a corporation may be granted by a judge notwithstanding that a notice of assessment in respect of that amount has not been sent to the corporation at or before the time the application is made where the judge is satisfied that the receipt of the notice of assessment by the corporation would likely further jeopardize the collection of the amount, and for the purposes of sections 57, 58 and 60, the amount in respect of which an authorization is so granted is deemed to be an amount payable under this Act.

(4) Statements contained in an affidavit filed in the context of an application under this section may be based on belief with the grounds for it.

(5) An authorization granted under this section in respect of a corporation shall be served by the Provincial Minister on the corporation within 72 hours after it is granted, except where the judge orders the authorization to be served at some other time specified in the authorization, and where a notice of assessment has not been sent to the corporation at or before the time of the application, the notice of assessment shall be served together with the authorization.

(6) For the purposes of subsection (5), service on a corporation must be effected by

- (a) personal service on the corporation, or
- (b) service in accordance with directions, if any, of a judge.

(7) Where service on a corporation cannot reasonably be effected as and when required under this section, the Provincial Minister may, as soon as practicable, apply to a judge for further direction.

(8) Where a judge has granted an authorization under this section in respect of a corporation, the corporation may, on 6 clear days’ notice to the Deputy Minister of Justice, apply to a judge to review the authorization.

(9) An application under subsection (8) shall be made

- (a) within 30 days from the day on which the authorization was served on the corporation in accordance with this section, or
- (b) within such further time as a judge may allow, on being satisfied that the application was made as soon as practicable.

(10) An application under subsection (8) may, on the application of the corporation, be heard in private if the corporation establishes to the satisfaction of the judge that the circumstances of the case justify private proceedings.

(11) On an application under subsection (8), the judge shall determine the question and may confirm, set aside or vary the authorization and make any other order as the judge considers appropriate.

(12) Where any question arises as to the course to be followed in connection with anything done or being done under this section and there is no direction in this section with respect to it, a judge may give such direction with regard to it as, in the judge’s opinion, is appropriate.

(13) No appeal lies from an order of a judge made pursuant to subsection (11).

Records and books of account

61(1) A corporation that is required by or pursuant to this Act to pay taxes or other amounts or is entitled to a refundable tax credit pursuant to this Act shall keep records and books of account including an annual inventory kept in the prescribed manner and the records and books of account shall be in the form and shall contain the information that will enable taxes payable and refundable tax credits receivable under this Act or taxes and other amounts that are to be collected to be determined.

(1.1) Records and books of account required to be kept under subsection (1) shall be kept

- (a) at the corporation's place of business or residence in Alberta, or
- (b) if it has no place of business or residence in Alberta, at a place in Alberta or elsewhere approved in writing by the Provincial Minister under any terms and conditions the Provincial Minister may impose.

(1.2) Notwithstanding subsection (1.1)(a), a corporation may keep the records and books of account at a place in Alberta or elsewhere approved in writing by the Provincial Minister under any terms and conditions the Provincial Minister may impose.

(2) If a corporation has failed to keep adequate records and books of account for the purposes of this Act, the Provincial Minister may require it to keep those records and books of account that the Provincial Minister may specify and that corporation shall then keep the records and books of account so required.

(3) Every corporation required by this section to keep records and books of account shall retain

- (a) the records and books of account in respect of which a period is prescribed, together with every account and voucher necessary to verify the information in any record or book of account, for the prescribed period, and
- (b) all records and books of account other than those referred to in clause (a), together with every account and voucher necessary to verify the information contained in any record or book of account, until the expiration of 6 years from the end of the last taxation year to which the records and books of account relate.

(3.1) Every person required by this section to keep records who does so electronically shall retain them in an electronically readable format for the retention period referred to in subsection (3).

(3.2) The Provincial Minister may, on such terms and conditions as are acceptable to the Provincial Minister, exempt a person or a class of persons from the requirement in subsection (3.1).

(4) Where, in respect of any taxation year, a corporation referred to in subsection (1) has not filed a return with the Provincial Minister as and when required by section 36(1), that corporation shall retain every record and book of account that is required to be kept by this section and that relates to that taxation year, together with every account and voucher necessary to verify the information contained in the record and book of account, until the expiration of 6 years from the day the return for that taxation year is filed.

(5) Where a corporation required by this section to keep records and books of account serves a notice of objection or is a party to an appeal under this Act, that corporation shall retain every record, book of account, account and voucher necessary for dealing with the objection or appeal until, in the case of the serving of a notice of objection, the time provided by section 50 or 50.1 to appeal has elapsed or, in the case of an appeal, until the appeal is disposed of and any further appeal in respect of it is disposed of or the time for filing any further appeal has expired.

(6) Where the Provincial Minister is of the opinion that it is necessary for the administration of this Act, the Provincial Minister may, by a demand served personally or by registered letter, require any corporation required by this section to keep records and books of account to retain those records and books of account, together with every account and voucher necessary to verify the information contained in the records and books of account, for any period specified in the demand.

(7) A corporation required by this section to keep records and books of account may dispose of the records and books of account referred to in this section, together with every account and voucher necessary to verify

the information contained in the records and books of account, before the expiration of the period for which those records and books of account are required to be kept if written permission for their disposal is given by the Provincial Minister.

RSA 2000 cA-15 s61;2001 c1 s40;2002 c28 s34;
2005 c25 s17;2010 c2 s11

Definitions

62 In sections 63 to 65.1,

- (a) “authorized person” means a person authorized by the Provincial Minister for the purposes of sections 63 to 65;
- (b) “documents” includes money, securities and records;
- (c) “dwelling-house” means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence and includes
 - (i) a building within the curtilage of a dwelling-house that is connected to it by a doorway or by a covered and enclosed passageway, and
 - (ii) a unit that is designed to be mobile and to be used as a permanent or temporary residence that is being used as a permanent or temporary residence;
- (d) “judge” means a judge of the court.

RSA 2000 cA-15 s62;2001 c1 s41;2002 c28 s34;2008 c29 s16

Inspection, audit and examination of books, etc.

63(1) An authorized person may, at all reasonable times, for any purpose related to the administration of this Act,

- (a) inspect, audit or examine the books and records of a corporation and any document of the corporation or of any other person that relates or may relate to the information that is or should be in the books or records of the corporation or to any amount payable by or to it under this Act,
- (b) require the production for inspection, audit or examination of all books, records or documents that are or may be relevant to the inspection, audit or examination, and
- (c) examine property in an inventory of a corporation and any property or process of, or matter relating to, the corporation or any other person, an examination of which may assist the authorized person in determining the accuracy of the inventory of the corporation or in ascertaining the information that is or should be in the books or records of the corporation or any amount payable by or to it under this Act,

and for those purposes the authorized person may, if the authorized person has reasonable grounds to believe that books, records, documents or property described in clauses (a) to (c) are likely to be found in any premises or place,

- (d) subject to subsection (3), enter into the premises or place, and
- (e) require the owner or manager of the property or business and any other person on the premises or at the place to give the authorized person all reasonable assistance and to make reasonable efforts to answer all proper questions relating to the administration of this Act and, for that purpose, require the owner or manager to attend at the premises or place with the authorized person.

(2) If, on an ex parte application by the Provincial Minister, a judge is satisfied by information on oath that

- (a) there are reasonable grounds to believe that there are in any premises or place other than a dwelling-house books, records, documents or property described in subsection (1)(a) to (c), and
- (b) entry into the premises or place is necessary for the administration of this Act,

the judge may issue a warrant authorizing an authorized person named in the warrant to enter the premises or place and to exercise any of the powers referred to in subsection (1), subject to the conditions specified in the warrant.

(3) If the premises or place referred to in subsection (1)(d) is a dwelling-house, an authorized person may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant under subsection (4).

(4) If, on ex parte application by the Provincial Minister, a judge is satisfied by information on oath

- (a) that there are reasonable grounds to believe that a dwelling-house is the premises or a place referred to in subsection (1)(d),
- (b) that entry into the dwelling-house is necessary for any purpose relating to the administration of this Act, and
- (c) that entry into the dwelling-house has been refused or that there are reasonable grounds to believe that entry into it will be refused,

the judge shall issue a warrant authorizing an authorized person named in the warrant to enter that dwelling-house subject to the conditions specified in the warrant but, if the judge is not satisfied that entry into that dwelling-house is necessary for any purpose relating to the administration of this Act, the judge shall

- (d) order the occupant of the dwelling-house to provide reasonable access to the authorized person to any document or property that is or should be kept in the dwelling-house, and
- (e) make any other order that is appropriate in the circumstances to carry out the purposes of this Act

to the extent that access has been or may be expected to be refused and that the document or property is or may be expected to be kept in the dwelling-house.

(5) In executing a warrant issued under this section, the authorized person named in the warrant shall not use force unless the authorized person is accompanied by a peace officer and the use of force has been specifically authorized in the warrant.

RSA 2000 cA-15 s63;2002 c28 s34

Notice to provide information, etc.

64(1) Notwithstanding any other provision of this Act, the Provincial Minister may, subject to subsection (4), for any purpose related to the administration or enforcement of this Act, including the collection of any amount payable under this Act by any person, by notice served personally, by facsimile or by registered letter, demand that a corporation or any other person provide or produce, within the reasonable period of time stipulated in the notice,

- (a) any information or additional information, including a return under section 36 or a supplementary return, or
- (b) any document.

(2) Repealed 2008 c29 s17.

(3) The Provincial Minister shall not demand under subsection (1) that any person, in this section referred to as a “third party” provide or produce information or a document relating to one or more unnamed persons unless the Provincial Minister first obtains the authorization of a judge under subsection (4).

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

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

(c), (d) repealed 1997 c2 s9.

(5) to (7) Repealed 2014 c6 s1(52).

Warrant to search and seize

65(1) A judge may, on ex parte application by the Provincial Minister, issue a warrant in writing authorizing any person named in the warrant to enter and search any building, receptacle or place for any document or thing that may afford evidence as to the commission of an offence under this Act and to seize and, as soon as practicable, bring the document or thing before, or make a report in respect of it to, a judge, who shall deal with it in accordance with this section.

(2) An application under subsection (1) shall be supported by information on oath establishing the facts on which the application is based.

(3) A judge may issue the warrant referred to in subsection (1) if the judge is satisfied that there are reasonable grounds to believe that

- (a) an offence under this Act has been committed,
- (b) a document or thing that may afford evidence of the commission of the offence is likely to be found, and
- (c) the building, receptacle or place specified in the application is likely to contain such a document or thing.

(4) A warrant issued under subsection (1) shall refer to the offence for which it is issued, shall identify the building, receptacle or place to be searched and the person alleged to have committed the offence and shall be reasonably specific as to the document or thing to be searched for and seized.

(5) Any person who executes a warrant under subsection (1) may seize, in addition to the document or thing referred to in subsection (1), any other document or thing that the person believes on reasonable grounds affords evidence of the commission of an offence under this Act and shall as soon as practicable bring the document or thing before, or make a report in respect of it to, a judge, who shall deal with it in accordance with this section.

(6) Subject to subsection (7), if any document or thing seized under subsection (1) or (5) is brought before a judge or a report in respect of it is made to a judge, the judge shall, unless the Provincial Minister waives retention, order that it be retained by the Provincial Minister, who shall take reasonable care to ensure that it is preserved until the conclusion of any investigation into the offence in relation to which the document or thing was seized or until it is required to be produced for the purposes of a criminal proceeding.

(7) If any document or thing seized under subsection (1) or (5) is brought before a judge or a report in respect of it is made to a judge, the judge may, of the judge's own motion or on application by a person with an interest in the document or thing, on 3 clear days' notice of the application to the Deputy Minister of Justice, order that the document or thing be returned to the person from whom it was seized or to the person who is otherwise legally entitled to it, if the judge is satisfied that the document or thing

- (a) will not be required for an investigation or a criminal proceeding, or
- (b) was not seized in accordance with the warrant or this section.

(8) The person from whom a document or thing is seized pursuant to this section is entitled, at all reasonable times and subject to any reasonable conditions that are imposed by the Provincial Minister, to inspect the document or thing and to obtain one copy of the document at the expense of the Provincial Minister.

RSA 2000 cA-15 s65;2002 c28 s34;2009 c53 s15;2013 c10 s35

Court order to provide information

65.1(1) On application by the Provincial Minister, a judge may, notwithstanding section 76(5), order a person to provide any access, assistance, information or document sought by the Provincial Minister under section 63 or 64 if the judge is satisfied that

- (a) the person was required under section 63 or 64 to provide the access, assistance, information or document and did not do so, and

- (b) in the case of information or a document, the information or document is not protected from disclosure by solicitor-client privilege within the meaning of subsection 232(1) of the federal Act.

(2) Section 231.7 of the federal Act applies for the purposes of this Act except that subsection (1) of this section applies instead of subsection 231.7(1) of the federal Act.

2002 c28 s31;2008 c29 s18;2009 c53 s15

Provincial Minister may authorize inquiry

66(1) The Provincial Minister may for any purpose related to the administration or enforcement of this Act authorize any person whether or not the person is an officer of the Minister's Department to make any inquiry the person considers necessary with reference to anything relating to the administration or enforcement of this Act.

(2) When the Provincial Minister pursuant to subsection (1) authorizes a person to make an inquiry, the Provincial Minister shall forthwith apply to the court for an order appointing a hearing officer before whom the inquiry will be held.

RSA 2000 cA-15 s66;2002 c28 s34

Copies of seized documents

67(1) If any document has been seized, inspected, examined, audited or provided under sections 63 to 65, the person by whom it is seized, inspected, examined or audited or to whom it is provided or any officer of the Department of Finance may make, or cause to be made, one or more copies of it and, in the case of an electronic document, make or cause to be made a print-out of the electronic document.

(2) A document purporting to be certified by the Provincial Minister, or a person authorized by the Provincial Minister, to be a copy of the document, or to be a print-out of an electronic document, made pursuant to this section is evidence of the nature and contents of the original document and has the same probative force as the original document would have had if it had been proven in the ordinary way.

RSA 2000 cA-15 s67;2001 c1 s43;2005 c25 ss13,17

Hindrance an offence

68 No person shall, physically or otherwise, interfere with, hinder or molest an authorized person (in this section having the meaning assigned by section 62(a)) doing anything that the authorized person is authorized to do under this Act or attempt to interfere with, hinder or molest an authorized person doing, or prevent or attempt to prevent an authorized person from doing, anything that the authorized person is authorized to do under this Act, and every person shall, unless the person is unable to do so, do everything that the person is required to do by or under sections 63 to 67.

RSA 2000 cA-15 s68;2002 c28 s32

Representation by counsel

69(1) Repealed 1986 c1 s31.

(2) Subject to subsection (3), for the purposes of an inquiry authorized under section 66(1), a hearing officer appointed under section 66(2) has all the powers and authorities with respect to that inquiry conferred on a commissioner appointed under the *Public Inquiries Act*.

(3) A hearing officer appointed under section 66(2) shall not exercise the powers to punish any person unless on application by the hearing officer, a judge of the court certifies that the power may be exercised in the matter disclosed in the application and the applicant has given the person in respect of whom the applicant proposes to exercise that power 24 hours' notice of the hearing of the application or any shorter notice that the judge considers reasonable.

(4) A person who gives evidence in an inquiry authorized under section 66(1) may be represented by counsel and, on request made by the person to the Provincial Minister, may receive a transcript of the evidence given by the person.

(5) A person whose affairs are investigated in the course of an inquiry authorized under section 66(1) may be present and be represented by counsel.

RSA 2000 cA-15 s69;2002 c28 s34

Application of federal Act

70 Section 232 of the federal Act applies with all necessary modifications for the purposes of this Act where in the same or similar circumstances that section is or would be applicable for the purposes of the federal Act.

RSA 1980 cA-17 s70

Information return

71 Whether or not a person has filed an information return as required by a regulation made under paragraph 221(1)(d) of the federal Act as it applies by virtue of section 56(2) of this Act, a person shall, on demand by the Provincial Minister served personally or by registered letter file with the Provincial Minister, within any reasonable time that may be stipulated in the demand, any prescribed information or return designated in the demand.

RSA 2000 cA-15 s71;2002 c28 s34;2010 c2 s14

Return, etc. to be signed

72 A return, certificate or other document made by a corporation under this Act or the regulations shall be signed on its behalf by a person duly authorized by the board of directors or other governing body of the corporation.

RSA 1980 cA-17 s72

Division 4.1 Tax Avoidance

General anti-avoidance rules

72.1(1) In this section and in section 41(1.11),

- (a) “tax benefit” means a reduction, avoidance or deferral of tax or other amount payable under this Act or the regulations or an increase in a refund of tax or other amount under this Act or the regulations, and includes a reduction, avoidance or deferral of tax or other amount that would be payable under this Act or the regulations but for a tax treaty, or an increase in a refund of tax or other amount under this Act or the regulations that is a result of a tax treaty;
- (b) “tax consequences” to a corporation means the amount of
 - (i) the corporation’s income, taxable income, taxable income earned in Canada or amount taxable in Alberta,
 - (ii) the corporation’s capital, adjusted taxable capital, basic capital amount or taxable capital employed in Canada referred to in Part 10,
 - (iii) the corporation’s amount of premiums receivable referred to in Part 9,
 - (iv) tax, refundable tax credit or other amount payable by or refundable to the corporation under this Act, or
 - (v) any other amount that is relevant for the purposes of computing any amount referred to in this clause;
- (c) “transaction” includes an arrangement or event.

(2) Where a transaction is an avoidance transaction, the tax consequences to a person shall be determined as is reasonable in the circumstances in order to deny a tax benefit that, but for this section, would result, directly or indirectly, from that transaction or from a series of transactions that includes that transaction.

(3) An avoidance transaction is any transaction

- (a) that, but for this section, would result, directly or indirectly, in a tax benefit, or
- (b) that is part of a series of transactions, which series, but for this section, would result, directly or indirectly, in a tax benefit,

but does not include a transaction that may reasonably be considered to have been undertaken or arranged primarily for bona fide purposes other than for one or more of the following:

- (c) to obtain the tax benefit;
- (d) to reduce, avoid or defer tax, or another amount payable as or in respect of tax under any other federal or provincial Act or regulation;
- (e) to increase a refund of tax, or of another amount in respect of tax, under any other federal or provincial Act or regulation.

(3.1) Subsection (2) applies to a transaction only if it may reasonably be considered that the transaction

- (a) would, if this Act were read without reference to this section, result, directly or indirectly, in a misuse of the provisions of any one or more of
 - (i) this Act or the regulations,
 - (ii) the *Income Tax Regulations* (Canada) as they apply for the purposes of this Act,
 - (iii) the *Income Tax Application Rules* (Canada) as they apply for the purposes of this Act,
 - (iv) a tax treaty, or
 - (v) any other Act or regulation of any other jurisdiction that is relevant in computing tax or any other amount payable by or refundable to a person under this Act or in determining any amount that is relevant for the purposes of that computation,

or

- (b) would result directly or indirectly in any abuse having regard to the provisions referred to in clause (a), other than this section, read as a whole.

(4) Repealed 2007 c25 s8.

(5) Without restricting the generality of subsection (2) and notwithstanding any other enactment,

- (a) any deduction, exemption or exclusion made in computing income, taxable income, taxable income earned in Canada, amount taxable in Alberta or tax payable or any part of it may be allowed or disallowed in whole or in part,
- (b) any deduction, exemption or exclusion referred to in clause (a) or any income, loss or other amount, or part of it, may be allocated to any corporation,
- (c) the nature of any payment or other amount may be recharacterized,
- (d) the tax effects that would otherwise result from the application of other provisions of this Act may be ignored, and
- (e) the amount of any refundable tax credits may be disallowed in whole or in part

in determining the tax consequences to a corporation as is reasonable in the circumstances in order to deny a tax benefit that would, but for this section, result, directly or indirectly, from an avoidance transaction.

(6) Where with respect to a transaction

- (a) a notice of assessment, reassessment or additional assessment involving the application of subsection (2) with respect to the transaction has been sent to a corporation, or
- (b) a notice of determination pursuant to section 41(1.11) has been sent to a corporation with respect to the transaction,

any corporation, other than a corporation referred to in clause (a) or (b), is entitled, within 180 days after the day of sending of the notice, to request in writing that the Provincial Minister make an assessment, reassessment or additional assessment applying subsection (2) or make a determination applying section 41(1.11) with respect to that transaction.

(7) Notwithstanding any other provision of this Act, the tax consequences to any person, following the application of this section, shall be determined only through a notice of assessment, reassessment, additional assessment or determination pursuant to section 41(1.11) involving the application of this section.

(8) On receipt of a request by a person under subsection (6), the Provincial Minister shall, with all due dispatch, consider the request and, notwithstanding section 43(1), assess, reassess or make an additional assessment or determination pursuant to section 41(1.11) with respect to that corporation, except that an assessment, reassessment, additional assessment or determination may be made under this subsection only to

the extent that it may reasonably be regarded as relating to the transaction referred to in subsection (6).

RSA 2000 cA-15 s72.1;2002 c28 s34;2006 c10 s11;
2007 c25 s8;2008 c29 s19; 2015 c21 Sched. 2 s1(28)

Limitation

72.11 The Provincial Minister shall not

- (a) make a determination involving the application of section 41(1.11) to a transaction entered into before May 1, 1995, or
- (b) apply section 72.1 to a transaction entered into before May 1, 1995 in an assessment, reassessment or additional assessment,

unless such a determination or application has been made by the Minister of National Revenue under the federal Act involving the application of section 152(1.11) or 245 of the federal Act to that transaction.

RSA 2000 cA-15 s72.11;2002 c28 s34

Tax benefits disallowed

72.12 Notwithstanding section 72.1(3.1), if, as a result of the application of subsection 237.3(6) of the federal Act, subsection 245(2) of that Act is deemed to apply at any time to any reportable transaction in respect of a person described in paragraph 237.3(2)(a) of the federal Act in relation to the reportable transaction, section 72.1(2) is deemed to apply in the same manner in relation to the reportable transaction or any other reportable transaction that is part of a series of transactions that includes the reportable transaction.

2015 c21 Sched. 2 s1(22)

72.2 Repealed 2003 c34 s13.

72.3 Repealed 1999 c18 s9.

72.4, 72.5 Repealed 2003 c34 s13.

Division 5 Offences and Penalties

73 Repealed 1992 c2 s32.

Third party civil penalties

73.01(1) The definitions in subsection 163.2(1) of the federal Act apply for the purposes of this section.

(2) Every person who makes or furnishes, participates in the making of or causes another person to make or furnish a statement that the person knows, or would reasonably be expected to know but for circumstances amounting to culpable conduct, is a false statement that could be used by another person (in subsections (6) and (15) referred to as the “other person”) for a purpose of this Act is liable to a penalty in respect of the false statement.

(3) The penalty to which a person is liable under subsection (2) in respect of a false statement is

- (a) where the statement is made in the course of a planning activity or a valuation activity, the amount determined by the formula

$$A \times B$$

where

A is the greater of \$1000 and the total of the person’s gross entitlements, at the time at which the notice of assessment of the penalty is sent to the person, in respect of the planning activity or valuation activity, and

B is the Alberta allocation factor of the person for the taxation year in which the false statement is used for a purpose of this Act,

and

(b) in any other case, \$1000.

(4) Every person who makes, or participates in, assents to or acquiesces in the making of, a statement to, by or on behalf of another person (in this subsection and subsections (5) and (6), (12)(c) and (15) referred to as the “other person”) that the person knows, or would reasonably be expected to know but for circumstances amounting to culpable conduct, is a false statement that could be used by or on behalf of the other person for a purpose of this Act is liable to a penalty in respect of the false statement.

(5) The penalty to which a person is liable under subsection (4) in respect of a false statement is the greater of

(a) \$1000, and

(b) the lesser of

(i) the penalty to which the other person would be liable under section 37.1(1) if the other person made the statement in a return filed for the purposes of this Act and knew that the statement was false, and

(ii) the amount determined by the formula

$$A \times B$$

where

A is the total of \$100 000 and the person’s gross compensation, at the time at which the notice of assessment of the penalty is sent to the person, in respect of the false statement that could be used by or on behalf of the other person;

B is the Alberta allocation factor of the person for the taxation year in respect of which the penalty under section 37.1(1) would be determined.

(6) For the purposes of subsections (2) and (4), a person (in this subsection and in subsection (7) referred to as the “advisor”) who acts on behalf of the other person is not considered to have acted in circumstances amounting to culpable conduct in respect of the false statement referred to in subsection (2) or (4) solely because the advisor relied, in good faith, on information provided to the advisor by or on behalf of the other person or, because of such reliance, failed to verify, investigate or correct the information.

(7) Subsection (6) does not apply in respect of a statement that an advisor makes or participates in, assents to or acquiesces in the making of in the course of an excluded activity.

(8) For the purpose of applying this section, other than subsections (4) and (5),

(a) where a person makes or furnishes, participates in the making of or causes another person to make or furnish, 2 or more false statements, the false statements are deemed to be one false statement if the statements are made or furnished in the course of

(i) one or more planning activities that are in respect of a particular arrangement, entity, plan, property or scheme, or

(ii) a valuation activity that is in respect of a particular property or service,

and

(b) for greater certainty, a particular arrangement, entity, plan, property or scheme includes an arrangement, an entity, a plan, a property or a scheme in respect of which

(i) an interest is required to have, or has, an identification number issued under section 237.1 of the federal Act that is the same number as the number that applies to each other interest in the property,

(ii) a selling instrument in respect of flow-through shares is required to be filed with the federal Minister because of subsection 66(12.68) of the federal Act, or

- (iii) one of the main purposes for a person's participation in the arrangement, entity, plan or scheme, or a person's acquisition of the property, is to obtain a tax benefit.

(9) For the purposes of this section, a person is not considered to have made or furnished, or participated in, assented to or acquiesced in the making of, a false statement solely because the person provided clerical services, other than bookkeeping services, or secretarial services with respect to the statement.

(10) Notwithstanding subsection (6) and section 37.1(4), a statement as to the value of a property or a service (which value is in this subsection referred to as the "stated value"), made by the person who opined on the stated value or by a person in the course of an excluded activity is deemed to be a statement that the person would reasonably be expected to know, but for circumstances amounting to culpable conduct, is a false statement if the stated value is

- (a) less than the product obtained when the percentage as prescribed under the federal regulations for the property or service is multiplied by the fair market value of the property or service, or
- (b) greater than the product obtained when the percentage as prescribed under the federal regulations for the property or service is multiplied by the fair market value of the property or service.

(11) Subsection (10) does not apply to a person in respect of a statement as to the value of a property or a service if the person establishes that the stated value was reasonable in the circumstances and that the statement was made in good faith and, where applicable, was not based on one or more assumptions that the person knew or would reasonably be expected to know, but for circumstances amounting to culpable conduct, were unreasonable or misleading in the circumstances.

(12) For the purposes of applying this section,

- (a) where a person is assessed a penalty that is referred to in subsection (2) the amount of which is based on the person's gross entitlements at any time in respect of a planning activity or a valuation activity and another assessment of the penalty is made at a later time,
 - (i) if the person's gross entitlements in respect of the activity are greater at that later time, the assessment of the penalty made at that later time is deemed to be an assessment of a separate penalty, and
 - (ii) in any other case, the notice of assessment of the penalty sent before that later time is deemed not to have been sent,
- (b) a person's gross entitlements at any time in respect of a planning activity or a valuation activity, in the course of which the person makes or furnishes, participates in the making of or causes another person to make or furnish a false statement, shall exclude the total of all amounts each of which is the amount of a penalty (other than a penalty the assessment of which is deemed to be void because of subsection (13)) determined under subsection (3)(a) in respect of the false statement for which notice of the assessment was sent to the person before that time, and
- (c) where a person is assessed a penalty that is referred to in subsection (4), the person's gross compensation at any time in respect of the false statement that could be used by or on behalf of the other person shall exclude the total of all amounts each of which is the amount of a penalty (other than a penalty the assessment of which is deemed to be void because of subsection (13)) determined under subsection (5) to the extent that the false statement was used by or on behalf of that other person and for which notice of the assessment was sent to the person before that time.

(13) For the purposes of this Act, if an assessment of a penalty that is referred to in subsection (2) or (4) is vacated, the assessment is deemed to be void.

(14) A person who is liable at any time to a penalty under both subsections (2) and (4) in respect of the same false statement is liable to pay a penalty that is not more than the greater of

- (a) the total amount of the penalties to which the person is liable at that time under subsection (2) in respect of the statement, and
- (b) the total amount of the penalties to which the person is liable at that time under subsection (4) in respect of the statement.

(15) Where an employee (other than a specified employee or an employee engaged in an excluded activity) is employed by the other person referred in subsections (2) and (4),

- (a) subsections (2) to (5) do not apply to the employee to the extent that the false statement could be used by or on behalf of the other person for a purpose of this Act, and
- (b) the conduct of the employee is deemed to be that of the other person for the purposes of applying section 37.1(1) to the other person.

2008 c29 s20

Penalty for late or deficient instalments

73.1 A corporation that is liable to pay an amount under section 39(2) in respect of a taxation year shall pay in addition to that amount a penalty equal to 50% of the amount, if any, by which

- (a) the interest payable by it under section 39(2) for the year exceeds the greater of
- (b) \$1000, and
- (c) 25% of the interest that would be computed under section 39(2) if that subsection were read without reference to clause (c).

1990 c4 s26

Evasion of tax by corporation

74(1) A corporation that

- (a) wilfully evades or attempts to evade payment of tax payable by it, or
 - (b) wilfully claims or attempts to claim a refundable tax credit greater than that to which it is entitled
- is guilty of an offence.

(2) Where a corporation is guilty of an offence under this section it is liable to a fine of not more than 200% of the amount

- (a) of tax sought to be evaded, and
- (b) that is the difference between the amount of the refundable tax credit claimed and the amount of the refundable tax credit to which it is entitled.

RSA 1980 cA-17 s74;1982 c1 s28;1983 c2 s20;
1983 c66 s16;1985 c1 s20

Evasion of tax

75(1) A person who

- (a) makes or participates in, assents to or acquiesces in the making of false or deceptive statements in a return, certificate, statement, application or answer filed or made as required by or under this Act or a regulation,
- (b) to evade payment of a tax imposed by this Act, destroys, alters, mutilates, secretes or otherwise disposes of the records or books of account of a corporation,
- (c) makes or assents to or acquiesces in the making of false or deceptive entries or omits or assents or acquiesces in the omitting to enter a material particular in records or books of account of a corporation,
- (d) repealed 2001 c1 s44,
- (e) wilfully in any manner evades or attempts to evade compliance with this Act or payment of taxes imposed by this Act, or
- (f) repealed 2001 c1 s44,
- (g) conspires with any person to commit an offence described in clauses (a) to (f)

is guilty of an offence and, in addition to any penalty otherwise provided, is liable

- (h) to a fine of not less than 50% and not more than 200% of the amount of tax sought to be evaded, or
- (i) repealed 2001 c1 s44,
- (j) to a fine under clause (h), and to imprisonment for a term of not more than 2 years.

(1.1) Every person that obtains or claims a refund or credit under this Act to which a corporation or any other person is not entitled or obtains or claims a refund or credit under this Act in an amount that is greater than the amount to which the corporation or other person is entitled

- (a) by making, or participating in, assenting to or acquiescing in the making of, a false or deceptive statement in a return, certificate, statement or answer filed or made under this Act or a regulation,
- (b) by destroying, altering, mutilating, hiding or otherwise disposing of a record or book of account of the corporation or other person,
- (c) by making, or assenting to or acquiescing in the making of, a false or deceptive entry in a record or book of account of the corporation or other person,
- (d) by omitting, or assenting to or acquiescing in an omission, to enter a material particular in a record or book of account of the corporation or other person,
- (e) wilfully in any manner, or
- (f) by conspiring with any person to commit any offence under this subsection,

is guilty of an offence and, in addition to any penalty otherwise provided, is liable to

- (g) a fine of not less than 50% and not more than 200% of the amount by which the amount of the refund or credit obtained or claimed exceeds the amount, if any, of the refund or credit to which the corporation or other person is entitled, or
- (h) both the fine described in clause (g) and imprisonment for a term not exceeding 2 years.

(2) If a person is convicted of an offence under this section, the person is not liable to pay a penalty under section 37.1 for the same matter unless the person is assessed that penalty before the information or complaint giving rise to the conviction is laid or made.

RSA 2000 cA-15 s75;2001 c1 s44;2008 c29 s21

Offences

76(1) A person who

- (a) fails to file a return or to provide or produce information or a document as and when required by this Act,
- (b) fails to comply with an order under section 65.1, or
- (c) fails to comply with section 61 or 68

is guilty of an offence.

(2) A person who fails to comply with a regulation made under subsection 221(1) of the federal Act, as it applies by virtue of section 56(2) of this Act, is guilty of an offence.

(3) A person guilty of an offence under subsection (1) is liable, in addition to any penalty otherwise provided, to a fine of not less than \$1000 and not more than \$25 000 or to imprisonment for a term not exceeding 12 months, or to both a fine and imprisonment.

(4) A person guilty of an offence under subsection (2) is liable to a fine of not more than \$10 000.

(5) A judge of the Provincial Court who convicts a person of an offence under subsection (1) may make such order as the judge considers proper to ensure that the person files a return or provides or produces a document as required by this Act.

(6) A person authorized by the Provincial Minister may at any time file an order of a judge of the Provincial Court made under subsection (5) with the clerk of the Court of Queen's Bench, and when it is filed the order has the same force and effect as if it were an order of the Court of Queen's Bench.

RSA 2000 cA-15 s76;2002 c28 s34;2008 c29 s22;
2008 c32 s4;2009 c15 s14

Communication of information

77(1) In this section,

- (a) "person" includes a partnership or firm;
- (b) "tax information" means any information obtained by or on behalf of the Provincial Minister under or for the purposes of this Act and includes, without limitation, a tax record;
- (c) "tax record" means any record, return, application, document or instrument, whether in written or electronic form, obtained by or on behalf of the Provincial Minister under or for the purposes of this Act.

(2) Except as authorized by this section, no person shall

- (a) knowingly communicate, or knowingly allow to be communicated, to any person any tax information,
- (b) knowingly allow any person to have access to any tax information, or
- (c) knowingly use any tax information otherwise than for the purpose for which it was provided under this section.

(3) Subsection (2) applies whether the tax information is communicated

- (a) directly or indirectly by the inspection, copying or giving possession of a tax record,
- (b) by the direct or indirect use of the tax information, or
- (c) by any other method.

(4) Subsection (2) does not apply in respect of

- (a) criminal proceedings, either by indictment or on summary conviction, that have been commenced by the laying of an information or the preferring of an indictment under an Act of Parliament,
- (b) proceedings under the *Provincial Offences Procedure Act*, or
- (c) any legal proceedings relating to the administration or enforcement of this Act or any other Act of Alberta that provides for the imposition or collection of a tax.

(5) Tax information may be communicated as follows:

- (a) to a person employed or engaged by the Government of Alberta if the tax information is
 - (i) statistical in nature and to be used solely in accordance with section 3 of the *Office of Statistics and Information Act*;
 - (ii) to be used solely by an employee under the administration of the Registrar of Corporations or the Registrar of Companies to confirm that a return or application under this Act has been filed or made by any person;
 - (iii) to be used solely for the purposes of the formulation or analysis of tax or fiscal policy;
 - (iv) to be used solely for the purposes of administering or enforcing this Act or any other taxation statute of Alberta, the *Small Power Research and Development Act* or Part 1, Division 2 of the *Crown's Right of Recovery Act*;
 - (v) to be used solely to identify a person to whom money is owed by the Government and to determine the amount of the money so that the Government can set off all or part of the money

owed against amounts owing by that person to the Government;

- (vi) to be used solely for the purposes of administering section 14 of the *Auditor General Act*;
- (vii) to be used solely for the purposes of administering the *Insurance Act*;
- (b) to a person employed or engaged by the Government of Canada or the government of a province in the administration or enforcement of a taxation statute of Canada or of that province if
 - (i) the tax information is used solely for the purposes of administering or enforcing the taxation statute, and
 - (ii) the Government of Canada or the government of that province supplies the Provincial Minister with equivalent information and records on a reciprocal basis;
- (c) to an employee or agent of the Government of Canada or the government of a province
 - (i) if the tax information consists of the name, address, telephone number, occupation and size or type of business of a person and is to be used solely for the purposes of enabling a department or agent of the Government of Canada or the government of that province to obtain statistical data for research and analysis, or
 - (ii) if the tax information consists of the identifying number, name, address, telephone number and facsimile number of an identifying number holder and is to be used solely for the purpose of the administration or enforcement of an Act of Parliament or a law of a province, if the holder of the identifying number is required by that Act or that law to provide the information, other than the identifying number, to the department or agency;
- (d) to a person to be used solely in the investigation or prosecution of offences under this Act;
- (e) to a justice of the peace or a judge of the Provincial Court for the purpose of making an application for an order under section 77.1;
- (f) to a person employed or engaged in the investigation or prosecution of offences under the *Criminal Code* (Canada) if
 - (i) an order under section 77.1 has been obtained in respect of the tax information, and
 - (ii) the tax information is used solely for the purpose of investigating or prosecuting the offence referred to in the order made under section 77.1;
- (g) to a corporation if the tax information is in respect of
 - (i) the status, for the purposes of section 26(1)(h), of property acquired by the corporation, or
 - (ii) the tax cost of property acquired by that corporation if, because of a provision of this Act or the federal Act, the cost is other than the consideration paid by that corporation;
- (h) to the person in respect of whom the information was received or any other person if the person in respect of whom the information was received authorizes in writing its release;
- (i) to any person if the tax information is in such a form that it cannot, directly or indirectly, be associated with or identify a particular person;
- (j) to any person, solely for the purposes of administration or enforcement of a law of a province that provides for workers' compensation benefits;
- (k) to an official of the federal Department of Finance, solely for the purposes of the formulation or evaluation of tax or fiscal policy;
- (l) to a police officer (within the meaning assigned by subsection 462.48(17) of the *Criminal Code* (Canada)) solely for the purpose of investigating whether an offence has been committed under the *Criminal Code* (Canada), or the laying of an information or the preferring of an indictment, where

- (i) such information can reasonably be regarded as being necessary for the purpose of ascertaining the circumstances in which an offence under the *Criminal Code* (Canada) may have been committed, or the identity of the person or persons who may have committed an offence, with respect to an official, or with respect to any person related to that official,
 - (ii) the official was or is engaged in the administration or enforcement of this Act, and
 - (iii) the offence can reasonably be considered to be related to that administration or enforcement;
 - (m) to the Chief Electoral Officer or his designate to be used solely for the purposes of ensuring associated corporations are complying with the requirements of the *Election Finances and Contributions Disclosure Act*.
- (6) A person who knowingly receives tax information holds that information subject to the same prohibitions and restrictions, if any, under subsections (2), (3) and (5) respecting communication of the information that applied to the person from whom the information was obtained.
- (7) Subsection (6) does not apply to tax information provided under subsection (5)(g), (h) or (i).
- (8) A person who contravenes subsection (2) is guilty of an offence and liable to a fine of not more than \$10 000.
- (9) A person to whom tax information has been provided for a particular purpose under subsection (5)(a) to (f) and who for any other purpose knowingly uses, communicates to any person, allows the communication to any person of, or allows any person access to, that information is guilty of an offence and liable to a fine of not more than \$10 000.

RSA 2000 cA-15 s77;2002 c28 ss33,34;2006 c10 s12;
2008 c32 s4;2008 c39 s16;2009 cC-35 s53;2012 c4 s14;
2015 c21 Sched. 2 s1(24)

Communication of information ordered by judge

77.1(1) A justice of the peace or a judge of the Provincial Court who is satisfied by affidavit evidence that there are reasonable grounds to believe that tax information lawfully communicated to or obtained by any person will afford evidence with respect to the commission of an offence under the *Criminal Code* (Canada) in respect of which the Government is a person aggrieved may issue an order allowing the tax information to be communicated in accordance with section 77(5)(f).

(2) An application for an order under subsection (1) shall be in writing and may be made ex parte.

(3) Notwithstanding section 77(6), a person to whom tax information has been communicated pursuant to an order obtained under subsection (1) may communicate the tax information to any other person engaged or employed in the investigation or prosecution of offences under the *Criminal Code* (Canada) solely for the purpose of investigating and prosecuting the offence referred to in the order.

RSA 2000 cA-15 s77.1;2008 c32 s4

78 Repealed 1985 c1 s24.

General offence and penalty

79 A person who contravenes any of the provisions of this Act or the regulations for which a penalty is not otherwise provided is guilty of an offence and liable to a fine of not more than \$10 000.

RSA 1980 cA-17 s79;1983 c2 s25;1985 c1 s25

Liability of officers of corporation

80 If a corporation is guilty of an offence under this Act or the regulations, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted.

RSA 1980 cA-17 s80

Division 6 Procedure and Evidence

Procedure re information and complaint

81(1) An information or complaint under this Act may be laid or made by an officer of the Minister's

Department, by a member of the Royal Canadian Mounted Police or by a person authorized by the Provincial Minister and when an information or complaint purports to have been laid or made under this Act it is deemed to have been laid or made by a person authorized by the Provincial Minister and shall not be called in question for lack of authority of the informant or complainant except by the Provincial Minister or by some person acting for the Provincial Minister or Her Majesty.

(2) An information or complaint in respect of an offence under this Act may be for one or more offences and no information, complaint, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to 2 or more offences.

(3) An information or complaint in respect of an offence under this Act may only be laid or made on or before a day 8 years from the time when the matter of the information or complaint arose.

RSA 2000 cA-15 s81;2002 c28 s34

Procedures

82(1) Where by this Act or a regulation, provision is made for sending a request for information, notice or demand, an affidavit of an officer of the Minister's Department setting out that

- (a) the officer has charge of the appropriate records,
- (b) the officer has knowledge of the facts in the particular case,
- (c) a request notice or demand was sent by registered letter on a named day to the person to whom it was addressed, indicating that address, and
- (d) the officer identifies as exhibits attached to the affidavit the post office certificate of registration of the letter or a true copy

and a true copy of the request notice or demand shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the sending and of the request notice or demand.

(2) If by this Act or a regulation a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Minister's Department setting out that the officer has charge of the appropriate records and that after a careful examination and search of the records the officer has been unable to find in a given case that the return, statement, answer or certificate, as the case may be, has been made by the person shall be admitted in evidence as proof, in the absence of evidence to the contrary, that the person did not make the return, statement, answer or certificate, as the case may be.

(3) If by this Act or a regulation a corporation is required to make a return, statement, answer or certificate, an affidavit of an officer of the Minister's Department setting out that the officer has charge of the appropriate records and that after careful examination of the records the officer has found that the return, statement, answer or certificate was filed or made on a particular day shall be admitted in evidence as proof, in the absence of evidence to the contrary, that it was filed or made on that day and not prior to that day.

(4) An affidavit of an officer of the Department of Finance setting out that the officer has charge of the appropriate records and that a document annexed to the affidavit is a document or true copy of a document or a print-out of an electronic document made by or on behalf of the Provincial Minister or some person exercising the powers of the Provincial Minister or by or on behalf of a corporation is evidence of the nature and contents of the document.

(5) An affidavit of an officer of the Minister's Department setting out that the officer has charge of the appropriate records and has knowledge of the practice of the Department and that an examination of the records shows that a notice of assessment for a particular taxation year or a notice of determination was sent to a taxpayer on a particular day pursuant to this Act and that after careful examination and search of the records the officer has been unable to find that a notice of objection or of appeal from the assessment or determination or a request under section 72.1(6), as the case may be, was received within the time allowed shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the statements contained in the notice.

(6) When evidence is offered under this section by an affidavit from which it appears that the person making the affidavit is an officer of the Minister's Department, it is not necessary to prove the person's signature or that the person is such an officer nor is it necessary to prove the signature or official character of the person before whom the affidavit was sworn.

RSA 2000 cA-15 s82;2001 c1 s45;2002 c28 s34;2005 c25 ss14,17;

Documents deemed signed

83 A document purporting to have been executed under or in the course of administration or enforcement of this Act over the name in writing of the Provincial Minister or an officer authorized by the Provincial Minister to exercise powers or perform duties of the Provincial Minister under this Act is deemed to have been signed, made and issued by the Provincial Minister or the officer unless called in question by the Provincial Minister or by a person acting for the Provincial Minister or for Her Majesty.

RSA 2000 cA-15 s83;2001 c1 s46;2002 c28 s34

Notices of assessments and forms

84(1) For the purposes of this Act, where a notice, notification or other document is mailed or sent by fax or other form of electronic transmission, it is presumed to be mailed or sent, as the case may be, on the date of that notice, notification or document.

(1.1) For the purposes of this Act, if a notice or other communication in respect of a person is made available in electronic format such that it can be read or perceived by a person or a computer system or other similar device, the notice or other communication is presumed to be sent to the person and received by the person on the date that an electronic message is sent, to the electronic address most recently provided before that date by the person to the Provincial Minister for the purposes of this subsection, informing the person that a notice or other communication requiring the person's immediate attention is available in the person's secure electronic account.

(1.2) For the purposes of subsection (1.1), a notice or other communication is considered to be made available if it is posted by the Provincial Minister in the person's secure electronic account and the person has authorized that notices or other communications may be made available in that manner and has not, before the date that the electronic message is sent, revoked that authorization in a manner specified by the Provincial Minister.

(2) When a notice of an assessment or determination has been sent by the Provincial Minister as required by this Act, the assessment or determination is deemed to have been made on the day the Provincial Minister sends the notice of the assessment or determination.

(2.1) Repealed 2015 c21 Sched. 2 s1(26).

(3) Every form purporting to be a form prescribed or authorized by the Provincial Minister is deemed to be a form authorized by the Provincial Minister under this Act unless called in question by the Provincial Minister or by some person acting for the Provincial Minister or for Her Majesty.

(4) In a prosecution for an offence under this Act, the production of a return, application, certificate, statement or answer required by or under this Act or a regulation purporting to have been filed or delivered by or on behalf of the person charged with the offence or to have been made or signed by the person or on the person's behalf shall be admitted in evidence as proof, in the absence of evidence to the contrary, that the return, application, certificate, statement or answer was filed or delivered by or on behalf of that person or was made or signed by the person or on the person's behalf.

(5) Every certificate issued by the Provincial Minister as to the taxable income of a corporation shall be admitted in evidence as proof, in the absence of evidence to the contrary, that the taxable income of a corporation is in the amount set out in the certificate.

(6) For the purposes of this Act, a document presented by the Provincial Minister purporting to be a print-out of the information in respect of a corporation received under section 36.1 by the Provincial Minister from a person shall be received as evidence and, in the absence of evidence to the contrary, is proof of the return filed by the person under that section.

RSA 2000 cA-15 s84;2001 c1 s47;2002 c28 s34;
2015 c21 Sched. 2 s1(26)

Division 7 Transitional

Transitional

85(1) For the purposes of this section,

(a) "incorporated provision" means a provision of the federal Act that is made applicable or referred to by

a provision of this Act;

(b) “old Act” means the *Alberta Income Tax Act* as it was on December 31, 1980.

(2) This Act applies to taxation years beginning after December 31, 1980.

(3) Where there is a reference in this Act to an incorporated provision and that incorporated provision refers to an amount that is required to be calculated under the federal Act with respect to a taxation year to which the old Act applies, that amount is deemed to have been determined under this Act as if this Act applied to that taxation year.

(4) Where this Act refers to any act, matter or thing done or existing in a taxation year to which this Act does not apply, the reference is deemed to include that act, matter or thing even though it was done or existed in a taxation year to which this Act does not apply.

(4.1) For the purposes of this Act, any amount calculated, deducted or deductible under the federal Act for a previous taxation year in respect of which the corporation was not subject to this Act or the old Act is deemed to have been calculated, deducted or deductible under this Act for the previous taxation year if the amount would have been calculated, deducted or deductible under this Act if it had applied to the corporation in that year.

(4.2) Notwithstanding subsection (4.1) and sections 6.1 and 6.2, if a corporation that

- (a) did not have a permanent establishment in Alberta on the last day of the immediately preceding taxation year,
- (b) had a permanent establishment in Alberta at any time within the 6-year period ending on the last day of the immediately preceding taxation year, and
- (c) had a balance for Alberta purposes that differed from the corresponding balance for purposes of the federal Act at the end of the taxation year ending in the period referred to in clause (b) in which it last had a permanent establishment in Alberta,

establishes a permanent establishment in Alberta at any time in the taxation year, the corporation shall determine the amount of the balance at the beginning of the current year as if it had had continuous operations in Alberta from the end of the taxation year in which it last had a permanent establishment in Alberta to the last day of the immediately preceding taxation year and had computed income or loss for the purposes of this Act over the intervening period in a manner that was consistent with the determination of income or loss over the intervening period for purposes of the federal Act.

(4.201) Notwithstanding subsection (4.1) and sections 6.1 and 6.2, if

- (a) subsection (4.2) does not apply,
- (b) a corporation establishes a permanent establishment in Alberta in the taxation year, and
- (c) the corporation
 - (i) had a permanent establishment in Quebec in the immediately preceding taxation year, and
 - (ii) had a balance at the end of that year under the Quebec Act that differed from the corresponding balance for purposes of the federal Act,

the amount of the balance at the beginning of the current year for the purposes of this Act is deemed to be equal to the aggregate of

- (d) the product obtained when the balance at the end of the immediately preceding taxation year under the Quebec Act is multiplied by the percentage of taxable income allocated to Quebec for that taxation year, and
- (e) the product obtained when the balance at the end of the immediately preceding year under the federal Act is multiplied by the percentage of taxable income that was not allocated to Quebec for that taxation year.

(4.202) For the purposes of subsections (4.2) and (4.201), a balance is

- (a) any amount that arose from the application of paragraphs 18(1)(b), 20(1)(a), 20(1)(b) and 20(1)(e), subsections 21(1), 21(2), 37(1), 40(1) and 91(2) and sections 65 to 68 and 110.1 of the federal Act, as those provisions apply for federal purposes and for the purposes of this Act,
- (b) any amount that arose from the application of the Quebec Act that resulted in the calculation of an amount that corresponds to an amount referred to in clause (a), and
- (c) a non-capital, net capital, restricted farm, farm or limited partnership loss balance at the end of the immediately preceding taxation year for the purposes of
 - (i) the federal Act,
 - (ii) this Act, or
 - (iii) the Quebec Act.

(4.21) Repealed 2012 c4 s15.

(4.3) For the purposes of computing the percentage of taxable income allocated to a province for the purpose of subsection (4.201), taxable income of the corporation for the immediately preceding year is deemed to be \$1 if the corporation did not have taxable income in that year.

(4.4) The taxable income of a corporation shall not be reduced by an amount in any taxation year by the application of section 111 of the federal Act, as it applies for purposes of this Act, to the extent that a portion of the amount is also applied to reduce the taxable income in a province other than Alberta so that the aggregate reduction in all provinces exceeds 100% of the available loss.

(5) Repealed 2005 c25 s15.

(6) and (7) Repealed by Revision.

(8) Repealed 1982 c1 s30.

RSA 2000 cA-15 s85;2004 c21 s11;2005 c25 s15;
2010 c2 s13;2012 c4 s15;2013 c11 s1

Part 9

Insurance Premiums Tax

Definitions

86(1) In this Part,

- (a) repealed 2012 c4 s17;
- (a.1) “accident and sickness insurance” has the meaning given to that expression by the regulations under the *Insurance Act*;
- (b) “annuity contract” means a contract that provides for the payment of an income for a specified period or for life and under the terms of which the sole benefit stated to be payable by reason of death does not exceed the sum of the amounts paid as consideration for the contract together with interest;
- (c) “business transacted in Alberta” means
 - (i) in the case of property insurance, all contracts of insurance on which premiums are receivable from, or in respect of, persons whose property was situated in Alberta at the time the premiums became payable, and
 - (ii) in the case of other insurance, all contracts of insurance on which premiums are receivable from, or in respect of, persons who were resident in Alberta at the time the premiums became payable;
- (c.1) “contract of insurance” includes
 - (i) any policy, certificate, interim receipt, renewal receipt or writing evidencing the contract,

whether sealed or not, and a binding oral agreement,

- (ii) reciprocal contracts of indemnity or inter-insurance exchanged as part of a reciprocal insurance exchange, and
 - (iii) a contract in respect of which a person deducts a policy reserve pursuant to paragraph 20(7)(c) of the federal Act as it applies for the purposes of this Act;
- (c.2) “insurance” means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance might be exposed or to pay a sum of money or other thing of value on the happening of a certain event and, without limiting the generality of the foregoing, includes life insurance and all classes of insurance established by the regulations under the *Insurance Act*;
- (c.3) “insurance money” includes all insurance money, benefits, surplus, profits, dividends, bonuses and annuities payable by an insurer under a contract of insurance;
- (d) “insurer” means any person that undertakes, or agrees or offers for valuable consideration to undertake or effect, a contract of insurance, and includes
- (i) a person or group of persons made up of underwriters operating on the plan known as Lloyd’s or any other plan approved by the Minister responsible for the *Insurance Act*,
 - (ii) a person who exchanges with other persons reciprocal contracts of indemnity or inter-insurance as part of a reciprocal insurance exchange,
 - (iii) a person who deducts a policy reserve pursuant to paragraph 20(7)(c) of the federal Act as it applies for the purposes of this Act, and
 - (iv) the ABC Benefits Corporation under the *ABC Benefits Corporation Act*,
but does not include a fraternal society as defined in the *Insurance Act*;
- (e) “life insurance” has the meaning given to that expression by the regulations under the *Insurance Act*;
- (f) “marine insurance” has the meaning given to that expression by the regulations under the *Insurance Act*;
- (f.1) “person” means a person as defined in the *Insurance Act*;
- (f.2) “pleasure craft” means a water craft or vessel used for recreational or sporting purposes, whether or not the craft or vessel is chartered to another person for that use;
- (f.3) “policy” means an instrument evidencing a contract of insurance;
- (f.4) “premium” means the single or periodical payment to be made for insurance and includes dues, assessments and other consideration;
- (f.5) “property” means property as defined in the *Insurance Act*;
- (f.6) “property insurance” has the meaning given to that expression by the regulations under the *Insurance Act*;
- (f.7) “reciprocal insurance exchange” means a reciprocal insurance exchange as defined in the *Insurance Act*;
- (g) “risk distribution plan” means a plan, agreement, scheme or arrangement entered into or established by insurers for the purposes of pooling, assigning or transferring risks among insurers and that is approved under section 661 of the *Insurance Act*.
- (h) repealed 2012 c4 s17.
- (i) repealed 1996 c4 s28.

(1.1) Repealed 2012 c4 s17.

(2) For the purposes of this Part, the tax payable by an insurer means the tax payable under this Part by the insurer as fixed by assessment or reassessment subject to variation on objection or on appeal, if any, in accordance with this Part.

(3) Repealed 2012 c4 s17.

RSA 2000 cA-15 s86;RSA 2000 cI-3 s851;2004 c5 s2;
2006 c10 s13;2008 c19 s38;2009 c15 s15;2012 c4 s17

Tax payable

87(1) For a taxation year that ends before April 1, 2016, an insurer shall pay to the Provincial Minister a tax of

- (a) 2% of the amount of premiums receivable during the year by the insurer under contracts of accident and sickness insurance and life insurance, and
- (b) 3% of the amount of premiums receivable during the year by the insurer under any other contract of insurance,

in respect of business transacted in Alberta by the insurer.

(1.1) For a taxation year that begins after March 31, 2016, an insurer shall pay to the Provincial Minister a tax of

- (a) 3% of the amount of premiums receivable during the year by the insurer under contracts of accident and sickness insurance and life insurance, and
- (b) 4% of the amount of premiums receivable during the year by the insurer under any other contract of insurance,

in respect of business transacted in Alberta by the insurer.

(1.2) For a taxation year that begins before April 1, 2016 and ends after March 31, 2016, an insurer shall pay to the Provincial Minister,

- (a) in respect of contracts of accident and sickness insurance and life insurance, a tax of
 - (i) 2% of the proportion of the amount of premiums receivable during the year that the number of days before April 1, 2016 bears to the number of days in the year, and
 - (ii) 3% of the proportion of the amount of premiums receivable during the year that the number of days after March 31, 2016 bears to the number of days in the year,

and

- (b) in respect of other contracts of insurance, a tax of
 - (i) 3% of the proportion of the amount of premiums receivable during the year that the number of days before April 1, 2016 bears to the number of days in the year, and
 - (ii) 4% of the proportion of the amount of premiums receivable during the year that the number of days after March 31, 2016 bears to the number of days in the year,

in respect of business transacted in Alberta by the insurer.

(2) Repealed 2012 c4 s18.

(3) For the purposes of this section, the “amount of premiums receivable” during a taxation year is the gross amount of premiums receivable during the taxation year less the aggregate of

- (a) an amount equal to the cash value of the dividends paid or credited to the insurer’s policy-holders during the taxation year, and
- (b) an amount equal to the premiums returned during the taxation year.

RSA 2000 cA-15 s87;2002 c28 s34;2008 c19 s38;2012 c4 s18;
2015 c21 Sched. 2 s1(27)

Exemptions

88(1) The tax imposed under this Part is not payable,

- (a) by an insurer transacting life insurance, on amounts receivable as consideration for an annuity contract,
- (b) in respect of premiums receivable under a contract of marine insurance, unless the premiums are receivable in respect of a pleasure craft,
- (c) in respect of a premium or a portion of a premium that an insurer does not retain under a risk distribution plan, or
- (d) by a reinsurer in respect of reinsurance premiums paid or credited to it by an insurer.

(2) For the purposes of this Part, a premium or a portion of a premium that an insurer directly or indirectly receives under a risk distribution plan is deemed not to be a reinsurance premium.

1987 c36 s27;2012 c4 s19

Return

89(1) An insurer liable to pay a tax under this Part for a taxation year shall file a return with the Provincial Minister in the prescribed form and containing the prescribed information on or before the 75th day after the end of the taxation year showing an estimate of the amount of tax payable by the insurer in respect of the taxation year and shall remit to the Provincial Minister the amount of tax payable by it in respect of the taxation year.

(2) Whether or not an insurer is liable to pay tax under this Part for a taxation year and whether or not a return has been filed under subsection (1) or (3), an insurer shall, on receipt of a notice served personally or by registered letter by the Provincial Minister, file with the Provincial Minister, within any reasonable time stipulated by the Provincial Minister in the notice, a return for the taxation year designated in the notice in the prescribed form and containing the prescribed information.

(3) A trustee in bankruptcy, assignee, liquidator, curator, receiver, trustee or committee and an agent or other person administering, managing, winding up, controlling or otherwise dealing with the property, business, estate or income of an insurer that has not filed a return for a taxation year as required by this section shall file the return required by subsection (1) for that insurer for that year.

RSA 2000 cA-15 s89;2002 c28 s34;2010 c2 s14;2012 c4 s20

Penalty

90 An insurer that has failed to file a return as and when required by this Part is liable to a penalty equal to the aggregate of

- (a) an amount equal to 5% of the tax that was unpaid when the return was required to be filed, and
- (b) the product obtained when 1% of the tax that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding 12, in the period between the day on which the return was required to be filed and the day on which the return was filed.

1987 c36 s27;1988 c3 s11;2012 c4 s21

Interest

91 If, at any time after the day on or before which a return under section 89 of an insurer was required to be filed for a taxation year, the amount of its tax payable for the year exceeds the aggregate of all amounts each of which is an amount paid at or before that time on account of tax payable and applied as at that time by the Provincial Minister to reduce the insurer's liability for an amount payable for the year under this Part, the insurer liable to pay the tax shall pay to the Provincial Minister interest at the prescribed rate on the excess computed for the period during which that excess is outstanding.

RSA 2000 cA-15 s91;2002 c28 s34;2012 c4 s22

Application of other Parts

92(1) Subject to subsections (1.01) and (1.1), sections 1 to 85 and Parts 10 and 11 do not apply for the purposes of this Part.

(1.01) Paragraph 87(2)(a) and sections 249 and 249.1 of the federal Act apply for the purpose of determining a taxation year of an insurer.

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

(2) In the application to this Part of the sections referred to in subsection (1.1),

(a) section 39(6) shall be read as if clause (a) read as follows:

(a) in the case of a penalty payable by reason of section 90, from the day on or before which the insurer's return under section 89 was required to be filed to the day of payment,

(a.1) section 43 shall be read as if subsections (1)(d)(ii) and (1.2) of that section were struck out,

(b) a liability of an insurer that may be reduced by the application of an amount to the liability by the Provincial Minister pursuant to the application of section 47 includes any liability under this Act, and

(c) section 47(4) shall be read as if clause (a.1) read as follows:

(a.1) the 75th day after the end of the taxation year,

(3) Repealed 1990 c4 s32.

RSA 2000 cA-15 s92;2001 c1 s48;2002 c28 s34;
2003 c34 s14;2012 c4 s23;2014 c6 s1(53)

Regulations

92.1 The Lieutenant Governor in Council may make regulations

(a) exempting any type, class or subclass of insurance from the application of this Part;

(b) defining any word or expression that is used but not defined in this Part.

2012 c4 s24

Part 10 Financial Institutions Capital Tax

Interpretation

93(1) In this Part,

(a) "adjusted taxable capital" means the adjusted taxable capital of a financial institution that is a resident corporation calculated in accordance with section 95;

(a.1) "Alberta Treasury Branches" means the corporation established as Alberta Treasury Branches by the *Alberta Treasury Branches Act*;

(b) "bank" means a bank to which the *Bank Act* (Canada) applies;

(c) "body corporate" means any body corporate with or without share capital and wherever or however incorporated;

(d) "deposit" means, subject to subsection (2), a sum of money that

(i) is paid on terms that are not referable to the provision of property or services or to the giving of security,

(ii) is payable to the person making it

(A) on demand,

(B) after notice, or

(C) on a fixed date or on the expiry of a specified term,

and

(iii) is paid or payable in accordance with prescribed requirements,

but does not include payments of sums of money that are prescribed;

(e) “deposit-taking business” means, subject to subsection (3),

(i) the lending, in the ordinary course of business, of money received by way of deposit, or

(ii) any other activity that is financed wholly or to any material extent out of the capital of, or the interest on, money received by way of deposit;

(e.1) “financial institution” means

(i) *Alberta Treasury Branches*,

(NOTE: Section 93(1)(e.1)(i) comes into force on Proclamation.)

(ii) a bank,

(iii) a credit union, or

(iv) a loan and trust corporation;

(f) “loan and trust corporation” means

(i) a loan corporation,

(ii) a trust corporation, or

(iii) a body corporate incorporated or operated for the purpose of offering the services of a loan corporation and a trust corporation;

(f.1) “loan corporation” means a body corporate incorporated or operated for the purpose of carrying on a deposit-taking business, but does not include Alberta Treasury Branches, a bank, an insurer, a credit union or a trust corporation;

(f.2) “long-term debt” has the meaning assigned to it by subsection 181(1) of the federal Act;

(g) “non-resident corporation” means a corporation that is not resident in Canada at the end of its taxation year;

(h) “reserves”, in respect of a financial institution for a taxation year, means the amount at the end of the year of all of the institution’s reserves, provisions and allowances (other than allowances in respect of depreciation or depletion) and, for greater certainty, includes any provision in respect of deferred taxes;

(h.1) repealed 1999 c18 s11;

(i) “resident corporation” means a corporation that is resident in Canada at the end of its taxation year;

(i.01), (i.1), (i.2) repealed 1999 c18 s11;

(j) “taxable capital employed in Canada” means the taxable capital employed in Canada of a financial institution that is a non-resident corporation calculated in accordance with section 96;

(k) repealed 1999 c18 s11;

(l) “total assets” includes

(i) any amount by which the value of an asset of a corporation, as carried on its account books or on its balance sheet, is in excess of the cost of the asset, or

(ii) any amount by which the value of an asset of a corporation has been written down and deducted from its income or retained earnings, where that amount

(A) is not deductible under Part 2, or

(B) is deductible under Part 2 by virtue of the application of paragraph 20(1)(n) or subparagraph 40(1)(a)(iii) or 44(1)(e)(iii) of the federal Act,

but, unless otherwise prescribed to be included, does not include any amount by which the value of an asset of a corporation has been written down and deducted from its income or retained earnings where that amount is deductible for the purposes of Part 2 under any provision of the federal Act other than those referred to in paragraph (B);

(m) “trust corporation” means a body corporate incorporated or operated for the purposes of

(i) offering its services to the public as executor, administrator, trustee, bailee, agent, custodian, receiver, liquidator, sequestrator, assignee or guardian or trustee of a minor’s estate or of the estate of a mentally incompetent person, and

(ii) carrying on a deposit-taking business,

but does not include Alberta Treasury Branches, a bank, an insurer, a credit union or a loan corporation.

(2) For the purposes of subsection (1)(d)(i), money is paid on terms that are referable to the provision of property or services or to the giving of security if

(a) it is paid by way of advance or part payment for the sale, lease or other provision of property or services of any kind and is repayable only in the event that the property or services are not in fact sold, leased or otherwise provided,

(b) it is paid by way of security for payment for the provision of property or services of any kind provided or to be provided by the person by whom or on whose behalf the money is accepted, or

(c) it is paid by way of security for the delivery or return of any property, whether in a particular state of repair or otherwise.

(3) Notwithstanding subsection (1)(e), a person shall not be considered to be carrying on a deposit-taking business if

(a) the person does not hold the person out as accepting deposits on a day to day basis, and

(b) any deposits that are accepted are accepted only on particular occasions and on a basis that is ancillary to another business purpose, whether or not in connection with the issue of debentures or other securities.

(4) For the purposes of determining the carrying value of a financial institution’s assets or any other amounts under this Part in respect of a financial institution’s capital, investment allowance, taxable capital, adjusted taxable capital or taxable capital employed in Canada for a taxation year or in respect of a partnership in which a financial institution has an interest,

(a) the equity and consolidation methods of accounting shall not be used;

(b) subject to clause (a) and except as otherwise provided in this Part,

(i) the amounts reflected in the balance sheet of a financial institution, other than a bank, presented to the owners or shareholders of the institution or the members of the partnership, as the case may be, or, where such a balance sheet was not prepared in accordance with generally accepted accounting principles or no such balance sheet was prepared, the amounts that would be reflected if such a balance sheet had been prepared in accordance with generally accepted accounting principles shall be used, and

(ii) in the case of a bank, the amounts reflected in the bank’s balance sheet accepted by the Superintendent of Financial Institutions shall be used.

(5) Unless a contrary intention is evident, no provision of this Part shall be read or construed as requiring the inclusion or permitting the deduction, in computing the amount of a financial institution’s capital, investment

allowance, taxable capital, adjusted taxable capital or taxable capital employed in Canada for a taxation year, of any amount to the extent that the amount has been included or deducted, as the case may be, in computing the first-mentioned amount under, in accordance with or by reason of any other provision of this Part.

(6) For the purposes of sections 95(2) and 97(5), a Canadian-controlled private corporation and another corporation to which it would, but for this subsection, be related at any time are deemed not to be related to each other at that time where the corporations are not associated with each other at that time.

1990 c4 s33;1995 c3 s26;1996 c4 s31;1997 c2 s13;
1999 c18 s11

Liability for tax

94(1) Every financial institution that has a permanent establishment in Alberta at any time in a taxation year is liable to pay a tax under this Part for that taxation year computed

- (a) in the case of a resident corporation, on its adjusted taxable capital for the taxation year, and
- (b) in the case of a non-resident corporation, on its taxable capital employed in Canada for the taxation year.

(2) Notwithstanding subsection (1), no tax is payable under this Part in respect of a particular taxation year by a corporation that was throughout the taxation year a corporation referred to in section 149 of the federal Act other than a prescribed corporation.

(3) If at any time, in this subsection referred to as “that time”, a corporation becomes or ceases to be a corporation referred to in section 149 of the federal Act, the taxation year of the corporation that would otherwise have included that time is deemed to have ended immediately before that time and a new taxation year is deemed to have commenced at that time.

1990 c4 s33;1999 c18 s12

Calculation of adjusted taxable capital

95(1) The adjusted taxable capital of a financial institution that is a resident corporation for a taxation year is the amount calculated in accordance with the following formula:

$$ATC = TC + (CTP \times SP)$$

where

ATC is the institution’s adjusted taxable capital for the taxation year;

TC is the institution’s taxable capital for the taxation year calculated in accordance with subsection (2);

CTP is the Canadian tangible property of the institution, which is the total of all amounts determined under paragraphs 181.3(1)(a) and (b) of the federal Act in respect of the institution for the taxation year;

SP is the fraction, expressed as a percentage, in which the numerator is 100% and the denominator is the percentage of the institution’s taxable capital that is not deemed under the prescribed rules to be used by it in the taxation year in a jurisdiction other than Canada.

(2) The taxable capital of a financial institution that is a resident corporation for a taxation year is the amount by which its capital for the taxation year calculated in accordance with subsection (3) exceeds its investment allowance for the taxation year calculated in accordance with subsection (5) in respect of all investments, each of which is an investment in a share of the capital stock or long-term debt of a related financial institution that has a permanent establishment in Alberta and is not exempt from tax under this Part.

(3) The capital of a financial institution that is a resident corporation for a taxation year is calculated in accordance with the following formula:

$$C = A - B$$

where

C is the capital of the institution for the taxation year;

- A is the total of the following amounts determined at the end of the taxation year:
- (a) the amount of the institution's long-term debt;
 - (b) the amount of the institution's capital stock or, in the case of an institution incorporated without share capital, the amount of its members' contributions;
 - (c) the amount of the institution's retained earnings;
 - (d) the amount of the institution's contributed surplus and the amount of any other surpluses;
 - (e) the amount of the institution's reserves for the year, except to the extent that they were deducted in computing its income under Part 2 for the taxation year;
- B is the total of the following amounts determined at the end of the taxation year:
- (a) the amount of the institution's deferred tax debit balance;
 - (b) the amount of any deficit deducted in computing the institution's shareholders' equity;
 - (c) any amount deducted under subsection 130.1(1) or 137(2) of the federal Act, as made applicable by sections 29 and 32 of this Act, in computing the institution's income under Part 2 for the year to the extent that the amount can reasonably be regarded as being included in the amount determined under A of this subsection in respect of the institution for the year.

(4) The capital of a financial institution that is a resident corporation for a taxation year determined under subsection (3) may not be less than zero.

(5) The investment allowance of a financial institution that is a resident corporation for a taxation year in respect of an investment in a share of the capital stock or long-term debt of a related financial institution described in subsection (2) is the amount determined in accordance with the following formula:

$$IA = CV \times \frac{D}{E}$$

where

- IA is the investment allowance of the financial institution for the taxation year in respect of the investment;
- CV is the carrying value of the investment to the financial institution at the end of the taxation year;
- D is the percentage of the related financial institution's taxable capital that is not deemed under the prescribed rules to be used by it in its last taxation year ending in the financial institution's taxation year in a jurisdiction other than Alberta;
- E is the percentage of the financial institution's taxable capital that is not deemed under the prescribed rules to be used by it in the taxation year in a jurisdiction other than Alberta.

RSA 2000 cA-15 s95;2001 c1 s49

Calculation of taxable capital employed in Canada

96(1) The taxable capital employed in Canada of a financial institution that is a non-resident corporation for a taxation year is the greater of

- (a) the product of 12.5 and its taxable income earned in Canada in the taxation year determined for the purposes of the federal Act, and
- (b) subject to subsection (2), the amount by which the total assets of the corporation in Canada at the end of the taxation year exceed the amount of the indebtedness of the corporation at the end of that year relating to its permanent establishments in Canada.

(2) The amount of indebtedness of the corporation referred to in subsection (1)(b) does not include

- (a) any amounts that are advanced or loaned to its permanent establishments in Canada

- (i) by the corporation,
- (ii) by its shareholders, directly or indirectly,
- (iii) by any person related to any of its shareholders, or
- (iv) by any other corporation,

or

- (b) any other indebtedness that is represented by bonds, bond mortgages, debentures, mortgages, lien notes or any other securities to which any part of the property in Canada is subject.

(3) The indebtedness of the corporation referred to in subsection (2)(b) does not include a trade account payable by the corporation and reported as a current liability, other than an indebtedness to shareholders or to any persons related to any of its shareholders, where the trade account

- (a) is outstanding for more than 90 days at the end of the taxation year, or

- (b) is a portion of a long-term debt to another corporation.

(4) The taxable capital employed in Canada of a financial institution that is a non-resident corporation does not include any capital invested in a ship or aircraft operated by the corporation in Canada in the taxation year where the corporation is entitled under paragraph 81(1)(c) of the federal Act in computing its income for the taxation year to exclude the income earned in the taxation year in Canada from the operation of the ship or aircraft.

(5) Repealed 1999 c18 s14.

1990 c4 s33;1996 c4 s33;1999 c18 s14

96.1 Repealed 1999 c18 s15.

Tax payable by resident financial institution

97(1) In this section, “threshold amount” in respect of a taxation year means \$400 000 000 or, if a higher amount is prescribed for the taxation year, the higher amount.

(2) The tax payable under this Part by a financial institution that is a resident corporation for a taxation year is calculated in accordance with the following formula:

$$T = A \times (B + C)$$

where

T is the tax payable;

A is the percentage of the institution’s adjusted taxable capital that is not deemed under the prescribed rules to be used by it in the taxation year in a jurisdiction other than Alberta;

B is 0.7% of the lesser of

- (a) the institution’s adjusted taxable capital for the taxation year, and

- (b) the institution’s basic capital amount determined under subsection (3) or (5) for the taxation year;

C is 1% of the amount by which the institution’s adjusted taxable capital for the taxation year exceeds its basic capital amount determined under subsection (3) or (5) for the taxation year.

(2.1) Notwithstanding subsections (2) and (6), where a financial institution that is a resident corporation has a taxation year that begins before April 1, 2001 and ends after March 31, 2001, the tax payable under this Part for the taxation year is equal to the proportion of the amount calculated under subsection (2) that the number of days in the taxation year before April 1, 2001 bears to 365.

(3) The basic capital amount of a financial institution that is a resident corporation for a taxation year is the threshold amount for the taxation year if the financial institution is not related in the taxation year to another financial institution that has a permanent establishment in Canada.

(4) The basic capital amount of a financial institution that is a resident corporation for a taxation year is the amount calculated under subsection (5) if the financial institution is related in the taxation year to another financial institution that

- (a) has a permanent establishment in Canada, and
- (b) is not exempt by virtue of section 94(2) from tax under this Part.

(5) The basic capital amount of a financial institution that is a resident corporation for a taxation year for the purposes of subsection (4) is the amount determined by multiplying the threshold amount for the taxation year by the ratio of

- (a) the institution's taxable capital employed in Canada for the taxation year for the purposes of Part I.3 of the federal Act, to
- (b) the total of the taxable capital employed in Canada for the purposes of Part I.3 of the federal Act of
 - (i) the financial institution for the taxation year, and
 - (ii) each related financial institution referred to in subsection (4) for its last taxation year ending before the end of the institution's taxation year.

(6) Notwithstanding subsection (2), the tax payable by a financial institution that is a resident corporation whose taxation year is less than 365 days is the product obtained by multiplying the amount calculated under subsection (2) by the ratio of the number of days in the taxation year to 365.

(7) Notwithstanding anything in this section, the maximum tax payable by a credit union under this Part for a taxation year is \$100.

(7.1) Notwithstanding subsections (6) and (7), where a credit union has a taxation year that begins before April 1, 2001 and ends after March 31, 2001, the tax payable under this Part for the taxation year is equal to the proportion of \$100 that the number of days in the taxation year before April 1, 2001 bears to 365.

(8) Repealed 2001 c1 s50.

RSA 2000 cA-15 s97;2001 c1 s50

Tax payable by non-resident financial institution

97.1(1) The tax payable under this Part for a taxation year by a financial institution that is a non-resident corporation is the amount calculated in accordance with the following formula:

$$T = 2\% \times (TC - PTC)$$

where

T is the tax payable;

TC is the institution's taxable capital employed in Canada;

PTC is that portion of the taxable capital employed in Canada that is used by the institution in jurisdictions outside Alberta as determined in accordance with the prescribed rules.

(2) Notwithstanding subsection (1), the tax payable by a financial institution that is a non-resident corporation

- (a) whose taxation year is less than 365 days, and
- (b) whose taxable capital employed in Canada for the taxation year is calculated using the amount referred to in section 96(1)(b),

is the product obtained by multiplying the amount calculated under subsection (1) by the ratio of the number of days in the taxation year to 365.

(3) Notwithstanding subsections (1) and (2), where a financial institution that is a non-resident corporation has a taxation year that begins before April 1, 2001 and ends after March 31, 2001, the tax payable under this Part for the taxation year is equal to the proportion of the amount calculated under subsection (1) that the

number of days in the taxation year before April 1, 2001 bears to 365.

RSA 2000 cA-15 s97.1;2001 c1 s51

98, 99 Repealed 1997 c2 s15.

99.1 Repealed 1999 c18 s17.

100 Repealed 1997 c2 s17.

Time for payment

101(1) Every corporation that is liable to pay tax under this Part and whose taxation year commences after March 31, 1990 shall, in respect of the taxation year, pay to the Provincial Minister

- (a) an amount equal to 1/12 of its tax payable under this Part for the year as estimated by it on or before the last day of each month in the year, and
- (b) the remainder of the tax payable by it under this Part for the year,
 - (i) subject to subclause (ii), on or before the last day of the 2nd month following the year, or
 - (ii) if section 38(1.1) or (1.2)(a) applies to the corporation for the purposes of Parts 1 to 8 in respect of the taxation year, on or before the last day of the 3rd month following the year.

(2) Notwithstanding subsection (1), a credit union whose taxation year commences after March 31, 1990 shall, in respect of the taxation year, pay to the Provincial Minister the tax payable by it under this Part for the year on or before the last day of the 3rd month following the year.

(3) Repealed 1997 c2 s19.

(4) For the purposes of subsection (1), if the taxation year of a corporation contains fewer than 365 days and the last day of the taxation year is more than 27 days after the last complete month of the year, the last day of the taxation year is deemed to be the last day of a month in the year.

RSA 2000 cA-15 s101;2002 c28 s34

Filing return

102(1) A corporation that is liable to pay tax for a taxation year under this Part shall file a return with the Provincial Minister in the prescribed form and containing the prescribed information within 6 months from the end of the taxation year.

(2) Whether or not a corporation is liable to pay tax under this Part for a taxation year and whether or not a return has been filed under subsection (1) or (4), a corporation shall, on receipt of a demand served personally or by registered letter from the Provincial Minister, file with the Provincial Minister within any reasonable time stipulated by the Provincial Minister in the demand a return for the taxation year designated in the demand in the prescribed form and containing the prescribed information.

(3) A return required to be filed under this section

- (a) shall include an estimate of the tax payable, if any, and
- (b) shall be signed by a person duly authorized by the board of directors or other governing body of the corporation.

(4) A trustee in bankruptcy, assignee, liquidator, curator, receiver, trustee or committee and an agent or other person administering, managing, winding up, controlling or otherwise dealing with the property, business, estate or income of a corporation that has not filed a return for a taxation year as required by this section shall file the required return for that corporation for that year.

RSA 2000 cA-15 s102;2002 c28 s34;2010 c2 s14

Penalty for failure to file return

103 A corporation that has failed to file a return as and when required by this Part is liable to a penalty equal to the aggregate of

- (a) an amount equal to 5% of the tax that was unpaid when the return was required to be filed, and
- (b) the product obtained when 1% of the tax that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding 12, in the period between the day on which the return was required to be filed and the day on which the return was filed.

1990 c4 s33

Interest

104(1) A corporation shall pay to the Provincial Minister in respect of a taxation year and in respect of the period beginning on the day on which the corporation is required to make a payment under section 101(1)(b) or (2) and ending

- (a) if there is an overpayment for the year, on the first day in respect of which interest is computed on that overpayment under section 47(4), or
- (b) in any other case, on the day on which the corporation's liability for tax under this Part for the year is extinguished,

the amount, if any, by which

- (c) interest at the prescribed rate on the amount of the corporation's tax for the year computed from the beginning to the end of the period,

exceeds

- (d) the aggregate of all amounts, each of which is interest at the prescribed rate on an amount paid by the corporation before the end of the period computed from the day that is the later of the beginning of the period and the day of payment to the end of the period.

(2) In addition to the interest payable under subsection (1), a corporation shall pay to the Provincial Minister in respect of a taxation year and in respect of the period beginning on the first day of the year and ending on the day on or before which the corporation is required to make a payment under section 101(1)(b) the amount, if any, by which the aggregate of

- (a) all amounts, each of which is interest at the prescribed rate on tax or an instalment of tax for the year that the corporation was required to pay to the Provincial Minister before the end of the period computed from the day on or before which the tax or instalment was required to be paid to the end of the period,

exceeds

- (b) all amounts, each of which is interest at the prescribed rate on an amount paid by the corporation at or before the end of the period and applied by the Provincial Minister to reduce the corporation's liability for an amount payable for the year computed from the day that is the later of the beginning of the period and the day of payment to the end of the period.

(3) In determining the amount of the instalment for the purposes of subsection (2)(a), section 101(1)(a) shall be read as if "as estimated by it" were struck out.

RSA 2000 cA-15 s104;2002 c28 s34

Application of other Parts

105(1) Subject to subsection (2), sections 1 to 85 and Parts 9 and 11 do not apply for the purposes of this Part.

(2) Subject to subsection (3), sections 1(1), (2)(c), (d), (e.1), (f), (g), (i), (3) and (4), 2(1) to (3), (8) and (10), 36.2, 37.1, 39(6), 41(1), (1.11), (1.111) and (1.12), 42, 43, 43.1, 45, 46, 47(2) to (4) and (4.2) to (5), 48 to 72, Part 8 Division 4.1 and 73.1 to 84 apply to this Part.

(3) In the application to this Part of the sections referred to in subsection (2),

- (a) section 39(6) shall be read as if clause (a) read as follows:
 - (a) in the case of a penalty payable by reason of section 103, from the day on or before which the corporation's return under section 102 was required to be filed to the day of payment,

- (a.1) repealed 2001 c1 s52,
- (b) a liability of a corporation that may be reduced by the application of an amount to the liability by the Provincial Minister pursuant to the application of section 47 includes any liability under this Act,
- (c) section 47(4) applies as if clause (a.1) came into force on April 1, 1990, and
- (d) section 73.1 applies with respect to amounts payable under section 104(2) after March 31, 1990.

RSA 2000 cA-15 s105;2001 c1 s52;2002 c28 s34

Coming into force

105.1 Section 93(1)(e.1)(i) comes into force on Proclamation and applies in respect of the taxation years specified in the Proclamation.

1999 c18 s18

Application of Part

105.2 This Part does not apply to taxation years beginning after March 31, 2001.

2001 c1 s53

Part 11 Royalty Credit and Tax Refunds for Individuals

Division 1 Alberta Royalty Credit

Interpretation

106(1) In this Division,

- (a) “Alberta crown royalty” means Alberta crown royalty as defined in subsection (1.01);
- (b) “crown royalty shelter” means the crown royalty shelter determined under subsection (1.1);
- (c) “individual” includes a trust or estate as defined in subsection 104(1) of the federal Act;
- (c.1) “qualified royalty” means a royalty receivable by or payable to the Crown in right of Alberta
 - (i) under an agreement as defined in the *Mines and Minerals Act* granting petroleum rights, natural gas rights or petroleum and natural gas rights and, for greater certainty, a qualified royalty under this subclause does not include any royalty under an agreement as defined in the *Mines and Minerals Act* granting rights to oil sands as defined in the *Mines and Minerals Act*, or
 - (ii) pursuant to the *Oil Sands Royalty Regulation, 1984* (AR 166/84) in respect of a prescribed lease;
- (d) “royalty credit” means a royalty credit to which an individual is entitled under this Division;
- (e) repealed 2001 c1 s54;
- (f) “taxation year” means,
 - (i) in the case of an estate or trust arising on death, a taxation year as defined in paragraph 104(23)(a) of the federal Act, and
 - (ii) in the case of an individual that is not an estate or trust arising on death, a calendar year;
- (g) “weighted average rate” means the weighted average rate determined in accordance with the regulations;
- (h) “weighted supplemental rate” means the weighted supplemental rate determined in accordance with the regulations.

(1.01) For the purposes of this Division, “Alberta crown royalty” of an individual for a taxation year, subject to subsection (2), means the aggregate of

- (a) any amount that is or is in respect of a qualified royalty (other than an amount prescribed under the federal regulations and an amount referred to in clause (b))

- (i) that became receivable from the individual in the year by

- (A) the Crown in right of Alberta,
 - (B) an agent of the Crown in right of Alberta, or
 - (C) a corporation, a commission or an association that is controlled by the Crown in right of Alberta or by an agent of the Crown in right of Alberta,

and

- (ii) that can reasonably be considered to be a royalty, tax (other than a tax or portion of a tax that can reasonably be considered to be a municipal or school tax), lease rental or bonus, however described, or to be in respect of the late receipt or non-receipt of any of those amounts, in relation to

- (A) the acquisition, development or ownership of a Canadian resource property of the individual, or

- (B) the production in Canada

- (I) of petroleum, natural gas or related hydrocarbons from a natural accumulation of petroleum or natural gas (other than a mineral resource) located in Canada, or from an oil or gas well located in Canada, in respect of which the individual had an interest,
 - (II) of sulphur from a natural accumulation of petroleum or natural gas located in Canada, from an oil or gas well located in Canada or from a mineral resource located in Canada, in respect of which the individual had an interest,
 - (III) to any stage that is not beyond the prime metal stage or its equivalent, of metal, minerals (other than iron or petroleum or related hydrocarbons) or coal from a mineral resource located in Canada in respect of which the individual had an interest,
 - (IV) to any stage that is not beyond the pellet stage or its equivalent, of iron from a mineral resource located in Canada in respect of which the individual had an interest, or
 - (V) to any stage that is not beyond the crude oil stage or its equivalent, of petroleum or related hydrocarbons from a deposit located in Canada of bituminous sands or oil shales in respect of which the individual had an interest,

and

- (b) any amount that is or is in respect of a qualified royalty (other than an amount prescribed in the federal regulations)

- (i) that is paid or payable by the individual in the year to

- (A) the Crown in right of Alberta,
 - (B) an agent of the Crown in right of Alberta, or
 - (C) a corporation, a commission or an association that is controlled by the Crown in right of Alberta or by an agent of the Crown in right of Alberta,

and

- (ii) that can reasonably be considered to be a royalty, tax (other than a tax or portion of a tax that can reasonably be considered to be a municipal or school tax), lease rental or bonus, however described, or to be in respect of the late payment or non-payment of any of those amounts, in relation to

- (A) the acquisition, development or ownership of a Canadian resource property, or

(B) the production in Canada

- (I) of petroleum, natural gas or related hydrocarbons from a natural accumulation of petroleum or natural gas (other than a mineral resource) located in Canada or from an oil or gas well located in Canada,
- (II) of sulphur from a natural accumulation of petroleum or natural gas located in Canada, from an oil or gas well located in Canada or from a mineral resource located in Canada,
- (III) to any stage that is not beyond the prime metal stage or its equivalent, of metal, minerals (other than iron or petroleum or related hydrocarbons) or coal from a mineral resource located in Canada,
- (IV) to any stage that is not beyond the pellet stage or its equivalent, of iron from a mineral resource located in Canada, or
- (V) to any stage that is not beyond the crude oil stage or its equivalent, of petroleum or related hydrocarbons from a deposit located in Canada of bituminous sands or oil shales

less any amount that is or is in respect of a qualified royalty and that is a reimbursement, contribution or allowance received by the individual under the terms of a contract pursuant to section 12.1(2) if the reimbursement, contribution or allowance was for an amount paid or payable by the individual in respect of an amount referred to in clause (a) or (b).

(1.02) Except for the purposes of subsections (1.3) and (1.4), Alberta crown royalty of an individual for taxation years commencing after 2005 shall not include any amount that, but for this subsection, would have been Alberta crown royalty of the individual for the taxation year where

- (a) the amount is or is in respect of a qualified royalty that is paid or payable to, or became receivable by, any of the recipients described in subsection (1.01)(a)(i)(A), (B) or (C) or (b)(i)(A), (B) or (C) after December 31, 2006,
- (b) the amount is or is in respect of a qualified royalty that is paid or payable to, or became receivable by, any of the recipients described in subsection (1.01)(a)(i)(A), (B) or (C) or (b)(i)(A), (B) or (C) on or before December 31, 2006, to the extent that the individual is entitled to receive a reimbursement, contribution or allowance in respect of that qualified royalty under the terms of a contract pursuant to section 12.1(2), or
- (c) the amount is Alberta crown royalty of a partnership that is deemed to be Alberta crown royalty of the individual pursuant to subsection (3) and
 - (i) is or is in respect of a qualified royalty that is paid or payable to, or became receivable by, any of the recipients described in subsection (1.01)(a)(i)(A), (B) or (C) or (b)(i)(A), (B) or (C) after December 31, 2006, or
 - (ii) is or is in respect of a qualified royalty that is paid or payable to, or became receivable by, any of the recipients described in subsection (1.01)(a)(i)(A), (B) or (C) or (b)(i)(A), (B) or (C) on or before December 31, 2006, to the extent that the partnership is entitled to receive a reimbursement, contribution or allowance in respect of that qualified royalty under the terms of a contract pursuant to section 12.1(2).

(1.1) An individual's crown royalty shelter

- (a) for the 1991, 1992, 1993 and 1994 taxation years, is the lesser of
 - (i) \$2 500 000, and
 - (ii) the proportion of \$2 500 000 that the number of days in the taxation years bears to 365,and
- (b) for the 1995 taxation year and subsequent taxation years that end before January 1, 2007, is the lesser

of

(i) \$2 000 000, and

(ii) the proportion of \$2 000 000 that the number of days in the taxation year bears to 365.

(1.2) If the taxation year of an individual commences in 2006 and ends in 2007 and the individual is not a member of a partnership to which subsection (3) applies in that taxation year, the crown royalty shelter of the individual for that taxation year is an amount equal to the proportion of \$2 000 000 that the number of days before January 1, 2007 in the taxation year bears to 365.

(1.3) If the taxation year of an individual commences in 2006 and ends in 2007 and the individual is a member of one or more partnerships whose fiscal periods ending in that taxation year commenced before 2007, the crown royalty shelter of the individual for that taxation year is the aggregate of the following amounts:

(a) the amount determined by the following formula:

$$\$2\,000\,000 \times \frac{E}{365} \times \frac{D}{C}$$

where

C is the Alberta crown royalty of the individual for the year,

D is the difference between the Alberta crown royalty of the individual for the year and the Alberta crown royalty deemed by subsection (3) to be Alberta crown royalty of the individual for the year from all partnerships,

E is the number of days before January 1, 2007 in the individual's taxation year,

and

(b) the aggregate of the amounts determined by the application of the following formula for each partnership:

$$\$2\,000\,000 \times \frac{A}{365} \times \frac{B}{C}$$

where

A is the number of days before January 1, 2007 in the partnership's fiscal period,

B is the Alberta crown royalty deemed by subsection (3) to be Alberta crown royalty of the individual from that partnership, and

C is the Alberta crown royalty of the individual for the taxation year.

(1.4) If in a taxation year of an individual commencing after December 31, 2006 the individual is a member of one or more partnerships whose fiscal periods ending in that taxation year commenced before January 1, 2007, the crown royalty shelter of the individual for that taxation year is the aggregate of the amounts determined by the application of the following formula for each partnership:

$$\$2\,000\,000 \times \frac{A}{365} \times \frac{B}{C}$$

where

A is the number of days before January 1, 2007 in the partnership's fiscal period,

B is the Alberta crown royalty deemed by subsection (3) to be Alberta crown royalty of the individual for the year from that partnership, and

C is the Alberta crown royalty of the individual for the taxation year.

- (2) An individual shall not include in computing the individual's Alberta crown royalty for a taxation year
- (a) any of the amounts described in subsection (1)(a) if those amounts are or are in respect of royalties receivable by or payable to the Crown in right of Alberta in respect of a restricted resource property described in section 26(1)(h)(i) or (ii), or
 - (b) the restricted percentage determined under section 26(1.11) or (1.111), as the case may be, of any of the amounts described in subsection (1)(a) if those amounts are or are in respect of royalties receivable by or payable to the Crown in right of Alberta in respect of a restricted resource property described in section 26(1)(h)(iii).
- (3) If an individual is a member of a partnership, the individual's share of the amount that would be Alberta crown royalty of that partnership if the partnership were an individual is deemed to be Alberta crown royalty of the individual.
- (4) In computing the Alberta crown royalty of an individual, no amount shall be included that would, if included, artificially increase the Alberta crown royalty of that individual.
- (5) If, in the opinion of the Provincial Minister, an individual and another individual or a corporation have at any time in a taxation year entered into one or more sales, exchanges, declarations of trust or other transactions that
- (a) lack any substantial business purpose, other than increasing the aggregate amount of the royalty credit that may be claimed, or
 - (b) artificially increase the royalty credit that may be claimed,
- the Provincial Minister may direct that the individual is not entitled to a royalty credit for the taxation year or subsequent taxation years.
- (6) A direction made under subsection (5)
- (a) shall not apply to a taxation year of any individual prior to the taxation year for which the direction is made, and
 - (b) may be revoked by the Provincial Minister and, if revoked, shall not apply to the taxation year for which the revocation occurs or to any subsequent taxation year.

RSA 2000 cA-15 s106;2001 c1 s54;2002 c28 s34;
2004 c21 s13;2006 c10 s14;2007 c25 s9

Application

107 This Division applies to an individual who has Alberta crown royalty in a taxation year.

RSA 2000 cA-15 s107;2004 c21 s14

Entitlement to royalty credit

108(1) Subject to section 110, an individual is entitled to a royalty credit for a taxation year ending before January 1, 2009 in the amount obtained when the weighted average rate for that year is multiplied by the lesser of

- (a) the individual's Alberta crown royalty for the year, and
- (b) the individual's crown royalty shelter for the year.

(2), (3) Repealed 1994 c33 s6.

RSA 2000 cA-15 s107;2007 c25 s10

109 Repealed 2001 c1 s55.

Time for application

110(1) An individual is entitled to a royalty credit in respect of a taxation year only if the individual files an application for the credit in the prescribed form within 3 years from the end of that taxation year.

(2) An individual becomes entitled to receive the amount of the royalty credit on the date the application is

filed under subsection (1) and is deemed to have paid that amount on account of any liability under this Act at that time.

RSA 2000 cA-15 s110;2001 c1 s56

Time limit

111 Notwithstanding section 110, an individual to whom royalty credit instalments have been paid for a taxation year shall file an application for the individual's royalty credit for the year in the prescribed form within 6 months from the end of the year.

1991 c1 s18

Royalty credit instalment

112(1) In this section, "moving average of the specified rates" means the moving average of the specified rates determined in accordance with the regulations.

(2) An individual who has reason to believe the individual will be entitled to a royalty credit for a taxation year after 1991 may, in respect of each month in the year, apply to the Provincial Minister at any time before the end of the year in the prescribed form for payment of a royalty credit instalment.

(3) An individual's royalty credit instalment for a month in a taxation year is the amount by which

(a) the product obtained when the lesser of

(i) the individual's estimated Alberta crown royalty for the year, and

(ii) the individual's estimated crown royalty shelter for the year

is multiplied by

(iii) the proportion that the number of days from the beginning of the taxation year to the last day of that month bears to the number of days in the taxation year, and

(iv) the moving average of the specified rates determined in respect of that month,

exceeds

(b) the aggregate of the royalty credit instalments in respect of previous months in the taxation year paid to the individual or applied to any liability the individual had under this Act.

(4) If an individual applies for a payment in respect of a month under this section, the Provincial Minister may determine the amount, if any, to be paid by the Provincial Minister and, on or after the last day of the month,

(a) pay the amount to the individual, or

(b) if the individual is liable to make a payment under this Act,

(i) apply the amount to reduce the liability, or

(ii) pay part of the amount to the individual and apply the balance of the amount to reduce the liability,

and the amount or the part of the amount applied at a particular time to reduce the liability is deemed to be a payment to the individual that is paid by the individual at the particular time to the Provincial Minister on account of the liability.

RSA 2000 cA-15 s112;2002 c28 s34

Repayment of instalment

113 An individual shall pay to the Provincial Minister, on or before the last day of the third month following the taxation year, the amount, if any, by which the aggregate of the amounts paid or applied by the Provincial Minister under section 112 for the year exceeds the royalty credit for the year to which the individual is entitled.

RSA 2000 cA-15 s113;2002 c28 s34

Penalty

114(1) An individual who has failed to file an application as required under section 111 is liable to a penalty equal to the aggregate of

- (a) an amount equal to 5% of the excess, if any, by which
 - (i) the aggregate of amounts paid to or applied to the liability of the individual under section 112 for the year exceeds
 - (ii) the aggregate of the royalty credit to which the individual is entitled for the year and the amounts paid by the individual under section 113 for the year on or before the date on which the application was required to be filed,
 and
- (b) the product obtained when 1% of the amount by which the excess determined under clause (a) is multiplied by the number of complete months, not exceeding 12, in the period from the date on which the application was required to be filed to the date on which the application was filed.

(2) If an individual is required to pay a penalty, the individual shall pay the penalty to the Provincial Minister, together with interest at the prescribed rate, computed from the date on or before which the individual's application under section 111 for a taxation year in respect of which the penalty is payable was required to be filed to the date of payment.

RSA 2000 cA-15 s114;2002 c28 s34

Interest

115 If, at any time, the cumulative royalty credit instalments paid to an individual under section 112 in respect of a taxation year exceed the cumulative royalty credit instalments for the year to which the individual would be entitled at that time under section 112(3) if section 112(3) were read as if "estimated" were struck out in clause (a)(i) and (ii) of that subsection, the individual shall pay interest at the prescribed rate for the period during which the excess is outstanding.

1991 c1 s18

Division 2 Resource Allowance Tax Refund

Definitions

115.1 In this Division,

- (a) "full resource allowance" means the amount calculated pursuant to paragraph 20(1)(v.1) of the federal Act without regard to the scheduled repeal of the paragraph;
- (b) "total royalties" means the aggregate of the amounts calculated pursuant to paragraphs 12(1)(o) and 18(1)(m) of the federal Act, both calculated without regard to the scheduled repeals of the paragraphs.

2004 c21 s15

Additional resource allowance deduction

115.2 An individual's additional resource allowance deduction for a taxation year is equal to the full resource allowance for the year less the aggregate of

- (a) the amount of the resource allowance deducted on the individual's return for the taxation year pursuant to paragraph 20(1)(v.1) of the federal Act as it applies for purposes of the *Alberta Personal Income Tax Act*,
- (b) the difference between the amount calculated pursuant to paragraph 12(1)(o) of the federal Act without regard to the scheduled repeal of the paragraph and the amount included in income on the individual's return for the taxation year pursuant to that paragraph, and
- (c) the difference between the amount calculated pursuant to paragraph 18(1)(m) of the federal Act without regard to the scheduled repeal of the paragraph and the amount in respect of which no deduction was allowed on the individual's return for the taxation year pursuant to that paragraph.

2004 c21 s15

Resource allowance refund calculation

115.3(1) Where in a taxation year the amount of the full resource allowance is greater than the amount of total royalties, an individual is entitled to a tax refund equal to the lesser of

- (a) 10% of the additional resource allowance deduction for the year, and
 - (b) the individual's tax otherwise payable for the year under the *Alberta Personal Income Tax Act*.
- (2)** The tax refund is applicable to the 2003 to 2006 taxation years.

2004 c21 s15

Division 3

Refund of Income Tax on Royalty Credit

Refund of income tax on royalty credit

115.4 An individual is entitled to a tax refund equal to the lesser of

- (a) 10% of the portion of the royalty credit received in the year and included in the calculation of taxable income for the year pursuant to paragraph 12(1)(x.2) of the federal Act, and
- (b) the individual's tax otherwise payable for the year under the *Alberta Personal Income Tax Act* less the amount of the refund received pursuant to section 115.3.

2004 c21 s15

Division 4

Assessment

Application for refunds

115.5(1) An individual is entitled to refunds under Divisions 2 and 3 in respect of a taxation year only if the individual files an application for the refunds in the prescribed form within 3 years from the end of that taxation year.

(2) An individual becomes entitled to receive the amount of the refunds on the date the application is filed under subsection (1) and is deemed to have paid that amount on account of any liability under this Act at that time.

2004 c21 s15

Repayment

116(1) If, at any time, the Provincial Minister determines that a royalty credit or tax refund has been paid to an individual under this Part for a taxation year in excess of the amount to which the individual was entitled,

- (a) the excess is deemed to be an amount that became payable by the individual on the date on which the amount was paid or refunded, and
- (b) the individual shall pay interest at the prescribed rate on the excess from the date it became payable to the date of payment.

(2) The Provincial Minister may, at any time, assess an individual in respect of an amount payable by the individual under subsection (1), and this Part applies in respect of an assessment made under this subsection as if it had been made under section 119.

RSA 2000 cA-15 s116; 2001 c1 s57; 2002 c28 s34;
2004 c21 s16

Repayment of interest

117 If, at any time, interest on a royalty credit or tax refund under this Part has been paid to an individual or applied to the individual's liability and it is determined at a subsequent time that the royalty credit or tax refund to which the individual was entitled was less than the amount on which interest was paid or applied, the following rules apply:

- (a) the amount by which the interest that has been paid or applied exceeds the interest, if any, computed in respect of the amount that is determined at the subsequent time to be the actual royalty credit or tax refund is deemed to be an amount, in this section referred to as "the amount payable", that became payable under this Part by the individual at the particular time;
- (b) the individual shall pay to the Provincial Minister interest at the prescribed rate on the amount payable

computed from the particular time to the date of payment;

- (c) the Provincial Minister may, at any time, assess the individual in respect of the amount payable and, if the Provincial Minister makes that assessment, this Act applies in respect of the assessment as if it had been made under section 119.

RSA 2000 cA-15 s117;2001 c1 s58;2002 c28 s34;
2004 c21 s17

Assessment and determination on application

118(1) The Provincial Minister shall examine an application for a royalty credit or tax refund under this Part for a taxation year and assess the interest and penalties payable and shall determine the amount of the royalty credit or tax refund, if any, to which the individual is entitled for the year.

(2) After an application is examined, the Provincial Minister shall send a notice of determination to the individual who filed the application.

RSA 2000 cA-15 s118;2001 c1 s59;2002 c28 s34;
2004 c21 s18

Assessment, reassessment, etc.

119(1) The Provincial Minister may, at any time, assess interest or penalties under this Part or determine the entitlement to and the amount, if any, of an individual's royalty credit or tax refund under this Part.

(2) The Provincial Minister may reassess, make additional assessments of, or assess interest or penalties under this Part or redetermine the entitlement to and the amount, if any, of the royalty credit or tax refund under this Part

- (a) at any time, if the individual filing an application for a royalty credit or tax refund
- (i) has made a misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in filing the application or in supplying any information under this Act, or
- (ii) has filed with the Provincial Minister a waiver in the prescribed form within 3 years from the day of sending of a notice of an original determination for a taxation year,

or

- (b) in any other case within 3 years from the day referred to in clause (a)(ii).

(2.1) Subject to subsection (2.2), if in a particular taxation year an individual is notified that, pursuant to section 38 or 39 of the *Mines and Minerals Act*, the Minister responsible for that Act has recalculated or made additional calculations that change an amount referred to in section 106(1.01)(a) or (b) for a previous taxation year in respect of which the period referred to in subsection (2)(b) has expired, the Provincial Minister, notwithstanding subsection (2), within the period referred to in subsection (2)(b) for the particular taxation year, may

- (a) assess, reassess or make additional assessments of interest or penalties under this Part with respect to the previous taxation year, and
- (b) determine or redetermine the entitlement to and the amount of the royalty credit or tax refund under this Part, if any, of the individual for the previous taxation year.

(2.2) The Provincial Minister may assess, reassess or make additional assessments, determinations or redeterminations under subsection (2.1) only to the extent that they are reasonably related to the recalculation or additional calculation under section 38 or 39 of the *Mines and Minerals Act* referred to in subsection (2.1).

(2.3) If as a result of a notice of objection filed under section 48 or an appeal under section 50, the Provincial Minister has vacated or varied an assessment, reassessment, determination or redetermination made under subsection (2.1) in respect of a taxation year, the Provincial Minister may, notwithstanding subsection (2), exercise any of the Provincial Minister's powers described in subsection (2.1) in respect of any other taxation year to the extent that the exercise of the powers is reasonably related to the recalculation or additional calculation under section 38 or 39 of the *Mines and Minerals Act* referred to in subsection (2.1).

(2.4) The Provincial Minister may exercise the powers under subsection (2.3) within one year after the assessment, reassessment, determination or redetermination referred to in subsection (2.3) has been vacated or

varied.

(3) Notwithstanding that more than 3 years have passed since the date of sending a notice of an original assessment of interest or penalties payable by an individual for a taxation year, or of a determination of the entitlement to a royalty credit or tax refund under this Part for the year, if a tax collection agreement is in effect under the *Alberta Personal Income Tax Act* and the amounts referred to in section 106(1.01) of this Act for the year are revised on a reassessment under the federal Act for the year, the Provincial Minister, within 12 months of the reassessment under the federal Act,

- (a) may reassess or make additional assessments of interest or penalties under this Part, or
- (b) may redetermine the amount of the royalty credit or tax refund, if any, to which the individual is entitled for the year.

(4) If the Provincial Minister would, but for this subsection, be entitled to reassess or make an additional assessment of interest or penalties or redetermine the entitlement to and the amount, if any, of an individual's royalty credit or tax refund under this Part by virtue only of the filing of a waiver under subsection (2)(a)(ii), the Provincial Minister may not make that reassessment, additional assessment, assessment or redetermination after the date that is 6 months after the date on which a notice of revocation of the waiver in the prescribed form is filed.

RSA 2000 cA-15 s119;RSA 2000 cA-30 s88;2001 c1 s60;
2002 c28 s34;2004 c21 s19;2005 c25 s16;2013 c11 s1;
2015 c21 Sched. 2 s1(28)

Refund of net credit

120(1) For the purposes of this section, the "net credit" of an individual under this Part for a taxation year is the amount, if any, by which the individual's royalty credit and tax refund for the year exceed the aggregate of

- (a) the interest and penalties payable under this Part for the year, and
- (b) the royalty credit instalments paid to the individual for the year less the aggregate of amounts paid by the individual under section 113 for the year.

(2) If an application for a royalty credit or tax refund under this Part for a taxation year has been filed by an individual within 3 years from the end of that year, the Provincial Minister shall, on or after sending a notice of determination for the year, refund to the individual the individual's net credit for the year.

(3) Instead of making a refund under this section, the Provincial Minister may, if the individual is liable or about to become liable to make a payment under this Act, apply the amount of the refund to that other liability and notify the individual of that action.

(4) If under this section an amount in respect of a taxation year is refunded to an individual or applied to another liability, the Provincial Minister shall pay or apply interest on the amount at the prescribed rate for the period beginning on the day that is the later of

- (a) the day on which the application for the royalty credit and tax refund under this Part for the year is filed, and
- (b) the end of the 3rd month of the year following the taxation year.

RSA 2000 cA-15 s120;2001 c1 s61;2002 c28 s34;
2004 c21 s20; 2015 c21 Sched. 2 s1(28)

Application of other Parts

121(1) Subject to subsection (2), sections 1 to 85 and Parts 9 and 10 do not apply for the purposes of this Part.

(2) Subject to subsection (3), sections 1(4), 36.2(1) and (2), 37.1, 41(1.11), (1.111) and (1.12), 43.1, 48, 48.1, 48.2, 50 to 54, 55(1), (3) and (4), 55.1 to 70, Part 8 Division 4.1, 74 to 79 and 81 to 84 apply to this Part.

(3) In the application to this Part of the sections referred to in subsection (2),

- (a) a reference to a corporation that is subject to this Act shall be read as a reference to an individual to which this Part applies,
- (b) a reference to an assessment or reassessment shall be read as a reference to an assessment, reassessment,

determination or redetermination under this Part, and

(c) a reference to a refundable tax credit shall be read as a reference to a royalty credit.

RSA 2000 cA-15 s121;2001 c1 s62;2004 c21 s21

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