

1975 Bill 25  
(Second Session)

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First Session, 18th Legislature, 24 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

## **BILL 25**

**THE ALBERTA INCOME TAX AMENDMENT ACT, 1975**

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THE PROVINCIAL TREASURER

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First Reading .....

Second Reading .....

Third Reading .....

## BILL 25

1975

(Second Session)

### THE ALBERTA INCOME TAX AMENDMENT ACT, 1975

(Assented to \_\_\_\_\_, 1975)

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

1. *The Alberta Income Tax Act is hereby amended.*
  2. *(1) Section 4 is amended*
    - (a) *as to subsection (3), by striking out clause (b) and by substituting the following:*
      - (b) 36 per cent in respect of the 1972, 1973 and 1974 taxation years;
      - (c) 26 per cent in respect of the 1975 and subsequent taxation years.
    - (b) *as to subsection (6), clause (a) by striking out the word "or" at the end of the clause and by substituting the word "and", and*
    - (c) *as to subsection (6), by striking out clause (b) and by substituting the following clause:*
      - (b) that proportion of the tax otherwise payable under this Act for that taxation year that
        - (i) the aggregate of the taxpayer's incomes from sources in that country
          - (A) for that year, if section 114 of the federal Act is not applicable, or
          - (B) if section 114 of the federal Act is applicable, for the period or periods in the year referred to in paragraph (a) of that sectionon the assumption that
        - (C) no businesses were carried on by him in that country, and
        - (D) no amount was deducted under section 91, subsection (5) of the federal Act in computing his income for the year,
- is of

## Explanatory Notes

**1. This Bill will amend chapter 182 of the Revised Statutes of Alberta 1970.**

**2. Section 4, subsections (3) and (6) presently read:**

(3) For the purposes of this section, the percentage of the tax payable under the federal Act to be used for computing the tax payable under this section is

- (a) 33 per cent in respect of the 1970 and the 1971 taxation years;
- (b) 36 per cent in respect of the 1972 and subsequent taxation years.

(6) Where an individual resided in Alberta on the last day of a taxation year and had income for the year that included income earned in a country other than Canada in respect of which any non-business-income tax was paid by him to the government of a country other than Canada, he may deduct from the tax payable by him under this Act for that taxation year an amount equal to the lesser of

- (a) the amount, if any, by which any non-business-income tax paid by him for the year to the government of such other country exceeds the amount claimed under the federal Act as a deduction for that taxation year by virtue of section 126, subsection (1) of that Act, or
- (b) that proportion of the tax otherwise payable under this Act for that taxation year that
  - (i) the aggregate of the taxpayer's income from sources in that country
    - (A) for that year, if section 114 of the federal Act is not applicable, or
    - (B) if section 114 of the federal Act is applicable, for the period or periods in the year referred to in paragraph (a) thereof,on the assumption that no business were carried on by him is of
  - (ii) the taxpayer's income
    - (A) for the year, if section 114 of the federal Act is not applicable, or
    - (B) if section 114 of the federal Act is applicable, for the period or periods in the year referred to in paragraph (a) thereof,minus any amounts deductible under section 111, subsection (1), paragraph (b) or section 112, or 113 of the federal Act for the year or such period or periods, as the case may be.

The amendments to subsection (6) are made necessary because of the amendments to section 126 of the federal Act relating to foreign tax deductions and made by clauses 83 (1) and (2) of Bill C-49 enacted by the Parliament of Canada last March.

- (ii) the taxpayer's income
  - (A) for the year, if section 114 of the federal Act is not applicable, or
  - (B) if section 114 of the federal Act is applicable, for the period or periods in the year referred to in paragraph (a) of that section,
 minus any amounts deductible under section 111, subsection (1), paragraph (b) or section 112 of the federal Act for the year or such period or periods, as the case may be.

*(2) Subsection (1), clauses (b) and (c) apply to the 1974 and subsequent taxation years.*

*3. The following section is added after section 4:*

**4.1** The tax payable by an individual and computed under section 4 for the 1975 or any subsequent taxation year shall be reduced by an amount equal to the lesser of

- (a) the tax computed under section 4 for the taxation year, and
- (b) \$80 minus 2 per cent of the individual's taxable income for that year.

*4. (1) Section 5, subsection (3) is amended*

*(a) as to clause (a), by striking out the word "or" at the end of the clause and by substituting the word "and",*

*(b) by striking out clause (b) and by substituting the following:*

(b) that proportion of the amount by which such part of any non-business-income tax paid by the corporation for the year to the government of a country other than Canada (except any such tax or part thereof that may reasonably 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 amount of the deduction claimed by the corporation under section 126, subsection (1) of the federal Act that

(i) the taxable income earned in the year in Alberta by the corporation as determined in accordance with regulations made under section 124, subsection (4), paragraph (a) of the federal Act

is of

(ii) the aggregate of the taxable income earned in the year in each province by the corpor-

**3. Selective tax reduction for individuals having a taxable income of less than \$4000.**

**4. Section 5 (3) presently reads:**

(3) Where the income for a taxation year of a corporation that maintained a permanent establishment in Alberta at any time in the taxation year includes income described in section 126, subsection (1), paragraph (b), subparagraph (i) of the federal Act from sources in a country other than Canada (in this section referred to as "foreign investment income") and where the corporation has claimed a deduction under section 126, subsection (1) of the federal Act in respect of the foreign investment income, the corporation may deduct from the tax for the year otherwise payable under this Act an amount equal to the lesser of

- (a) 11 per cent of the product of
  - (i) the foreign investment income of the corporation for the year from sources in the country, and
  - (ii) that proportion of the taxable income earned in the year by the corporation that is determined to have been earned in the year in Alberta in accordance with regulations made under section 124, subsection (4), paragraph (a) of the federal Act,or
- (b) that proportion of the amount of the deduction from the tax for the year otherwise payable by the corporation under Part I of the federal Act that would be permitted under section 126, subsection (1) of that Act if the reference to section 124, subsection (2) set out in section 126, subsection (7), paragraph (d), subparagraph (i) of that Act were read as section 124 of that Act minus the amount of the deduction claimed by the corporation under section 126, subsection (1) of the said Act, that
  - (i) the taxable income earned in the year in Alberta by the corporation as determined in accordance with regulations made under section 124, subsection (4), paragraph (a) of the federal Actis of
  - (ii) the aggregate of the taxable income earned in the year in each province by the corporation as determined in accordance with regulations made under section 124, subsection (4), paragraph (a) of the federal Act.

The amendment corrects a technical defect in the present foreign tax credit mechanism under the Alberta Act to reflect the 11 per cent Alberta rate rather than the 10 per cent federal abatement.

ation as determined in accordance with regulations made under section 124, subsection (4), paragraph (a) of the federal Act.

*(2) This section applies to the 1974 and subsequent taxation years.*

*5. The following heading and sections are added after section 8.3:*

#### **Royalty Tax Rebates and Credits**

**8.4 (1)** In this section,

- (a) “attributed Canadian royalty income” of a taxpayer for a taxation year means the aggregate of
  - (i) the amounts required to be included in computing the taxpayer’s income for the year by virtue of section 12, subsection (1), paragraph (o) of the federal Act,
  - (ii) the amounts in respect of which no deduction is allowed in computing the taxpayer’s income for the year by virtue of section 18, subsection (1), paragraph (m) of the federal Act,
  - (iii) the amount, if any, by which the fair market value of petroleum, natural gas or related hydrocarbons (except coal) disposed of by him and to which section 69, subsection (6) of the federal Act applies exceeds the proceeds, if any, of dispositions referred to in that subsection, and
  - (iv) any amounts by which the cost of acquisitions referred to in section 69, subsection (7) of the federal Act and incurred in the year exceeds the fair market value of the property so acquired,  
where those amounts relate to the production from oil or gas wells or bituminous sands or oil sands, but does not include any Canadian development expense (as defined in section 66.2, subsection (5), paragraph (a) of the federal Act);
- (b) “federal basic tax rate” of a taxpayer for a taxation year means the proportion that his tax payable under the federal Act for the year is of his taxable income for the year, expressed as a percentage;
- (c) “royalty tax rebate” means a rebate to which a taxpayer is entitled under this section;
- (d) the expression “tax otherwise payable under this Act”, or any similar expression, means the tax pay-

**5. 8.4** Royalty tax rebates to be applied against income tax payable under The Alberta Income Tax Act. Amendments of the federal Act recently enacted by the federal Parliament (Bill C-49) resulted in the inclusion in a taxpayer's income of the amount of royalties, rentals, etc., receivable by the Crown or a Crown agency under, among other things, petroleum and natural gas and oil sands leases. Section 8.4 is aimed at offsetting the effect of the federal legislation in respect of the income so attributed, by rebating a proportionate amount against Alberta income tax payable.

able under this Act without reference to this section and section 8.5;

- (e) "tax payable under the federal Act" has the meaning assigned thereto by section 4, subsection (4), clause (d).

(2) An individual is entitled, subject to this section and the regulations, to a royalty tax rebate in respect of a taxation year in an amount equal to the lesser of

- (a) the product obtained when
  - (i) the proportion of his attributed Canadian royalty income for the year that
    - (A) his income earned in Alberta in the year as determined in accordance with Part XXVI of the federal regulationsis of
    - (B) his income for the year,
  - is multiplied by
  - (ii) for the 1974 taxation year, 36 per cent of his federal basic tax rate for that year, or
  - (iii) for the 1975 and subsequent taxation years, 26 per cent of his federal basic tax rate for the year,
  - and
- (b) his tax otherwise payable under this Act for the year.

(3) A corporation is entitled, subject to this section and the regulations, to a royalty tax rebate in respect of a taxation year in an amount equal to the lesser of

- (a) 11 per cent of that proportion of its attributed Canadian royalty income for the year that
  - (i) its taxable income earned in Alberta as determined in accordance with Part IV of the federal regulationsis of
  - (ii) its taxable income for that year,
  - and
- (b) its tax otherwise payable under this Act for the year.

(4) A taxpayer may, at the time he applies for a royalty tax rebate for a taxation year, deduct his royalty tax rebate for the year from his tax otherwise payable under this Act for the year.

(5) Where there is no tax otherwise payable under this Act by a taxpayer for a taxation year, the taxpayer is entitled to carry forward his attributed Canadian royalty income for the year to the next succeeding taxation year



and to use that income in the calculation of his royalty tax rebate for the next succeeding year, as though it were attributed Canadian royalty income in the next succeeding year.

(6) Where there is tax otherwise payable under this Act by a taxpayer for a taxation year, the taxpayer is entitled to carry forward and use in the calculation of his royalty tax rebate for the next succeeding year, as though it were attributed Canadian royalty income in the next succeeding year,

(a) in the case of an individual, the quotient obtained when

(i) the amount, if any, by which the product determined for him for the year under subsection (2), clause (a) exceeds his tax otherwise payable under this Act for the year,

is divided by

(ii) in the case of the 1974 taxation year, the product of

(A) 36 per cent of his federal basic tax rate, and

(B) the quotient obtained when his income earned in Alberta in the 1974 taxation year (as determined in accordance with Part XXVI of the federal regulations) is divided by his income for that taxation year,

or

(iii) in the case of the 1975 and subsequent taxation years, the product of

(A) 26 per cent of his basic federal tax rate, and

(B) the quotient obtained when his income earned in Alberta in the taxation year (as determined in accordance with Part XXVI of the federal regulations) is divided by his income for that taxation year;

(b) in the case of a corporation, the quotient obtained when

(i) the amount, if any, by which the amount determined for it for the year under subsection (3), clause (a) exceeds its tax otherwise payable under this Act for the year,

is divided by

(ii) 11 per cent of the quotient obtained when its taxable income earned in Alberta for the year (as determined in accordance with Part IV of the federal regulations) is divided by its taxable income for the year.



(7) Notwithstanding subsections (5) and (6), a taxpayer is not entitled to carry forward his attributed Canadian royalty income for a taxation year under those subsections unless

- (a) in the case of a corporation, the corporation had a permanent establishment in Alberta at some time during that year, or
- (b) in the case of an individual, the individual either had a permanent establishment in Alberta at some time during that year or was resident in Alberta on the last day of that year.

(8) A taxpayer is not entitled to a royalty tax rebate in respect of a taxation year unless application is made therefor by the taxpayer to the Provincial Treasurer in the manner and at the time prescribed by the Provincial Treasurer.

(9) The Provincial Treasurer may prescribe forms for the purposes of this section.

**8.5 (1)** In this section

- (a) "associated corporations" means corporations that
  - (i) are deemed to be associated with each other by virtue of a direction made under section 247, subsection (2) of the federal Act, or
  - (ii) are associated with each other by virtue of section 256 of the federal Act;
- (b) "attributed Alberta royalty income" of a taxpayer for a taxation year means the aggregate of all amounts each of which is
  - (i) an amount required to be included in computing the taxpayer's income for the year by virtue of section 12, subsection (1), paragraph (o) of the federal Act, or
  - (ii) an amount in respect of which no deduction is allowed in computing the taxpayer's income for the year by virtue of section 18, subsection (1), paragraph (m) of the federal Act, and each of which is a royalty receivable by the Crown in right of Alberta under a lease, licence, reservation or permit granting petroleum rights, natural gas rights or petroleum and natural gas rights;
- (c) "royalty tax credit" means a credit to which a taxpayer is entitled under this section.

**(2) Where**

- (a) an individual's income includes income from a business the fiscal period of which does not coincide with the calendar year, and

**8.5** The proposed section 8.5 will implement point (3) of the Alberta Petroleum Exploration Plan — December 1974 entitled “A Tax Credit Plan for Smaller Explorers”. Section 8.5 provides for the granting of credits against Alberta income tax of a portion of the amounts payable to the Government of Alberta as oil and gas royalties which are, under the Federal Government’s budgets of May 6, 1974 and November 18, 1974, attributed to the taxpayer as income.

(b) the income from that business consists of or includes income from oil or gas wells,  
then, for the purposes of this section, a reference to a taxation year shall, with respect to that individual, be read as a reference to a fiscal period of that business.

(3) Subject to this section and the regulations, an individual who has attributed Alberta royalty income in a taxation year is entitled to a royalty tax credit for that taxation year in an amount equal to the lesser of

- (a) 25 per cent of the individual's attributed Alberta royalty income for the year, and
- (b) the lesser of
  - (i) \$25,000, and
  - (ii) that proportion of \$25,000 that the number of days in the taxation year after May 6, 1974 bears to 365.

(4) Subject to this section and the regulations, a corporation that has attributed Alberta royalty income in a taxation year is entitled to a royalty tax credit for the taxation year in an amount equal to

- (a) 30 per cent of the corporation's attributed Alberta royalty income, in the case of the 1974 taxation year,
- (b) 28 per cent of the corporation's attributed Alberta royalty income, in the case of the 1975 taxation year, and
- (c) 25 per cent of the corporation's attributed Alberta royalty income, in the case of the 1976 taxation year and each subsequent taxation year,

but not exceeding the maximum allowable credit for the taxation year.

(5) For the purposes of subsection (4), where a corporation has a taxation year (in this subsection referred to as "the particular taxation year") part of which is before and part of which is after the commencement of the 1975 or 1976 calendar year (in this subsection referred to as "the particular calendar year"), the percentage referred to in subsection (4) for the particular taxation year shall be the percentage equal to the aggregate of

- (a) that proportion of the percentage so referred to for the particular taxation year that the number of days in that portion of the particular taxation year that is in the particular calendar year is of the number of days after May 6, 1974 in the particular taxation year, and
- (b) that proportion of the percentage so referred to for the taxation year immediately preceding the particular taxation year that the number of days after



May 6, 1974 in that portion of the particular taxation year that is in the calendar year immediately preceding the particular calendar year is of the number of days after May 6, 1974 in the particular taxation year.

(6) For the purposes of this section, the maximum allowable credit for a corporation for a taxation year is the lesser of

- (a) \$1,000,000, and
- (b) that proportion of \$1,000,000 that the number of days in the taxation year after May 6, 1974 bears to 365.

(7) Where each of two or more associated corporations are entitled to a royalty tax credit for the same taxation year and the aggregate amount of the royalty tax credits of those corporations for the taxation year exceeds the maximum allowable credit, the royalty tax credit for each of those corporations for that taxation year shall be that proportion of the maximum allowable credit allocated to the corporation by an agreement made between those corporations setting out the proportions in which the maximum allowable credit is to be divided among them.

(8) An agreement referred to in subsection (7) shall be filed with the Provincial Treasurer but if no agreement is filed within 30 days after notice in writing by the Provincial Treasurer has been forwarded to any of the associated corporations that such an agreement is required for the purposes of this section, the Provincial Treasurer shall, for the purpose of this section, allocate an amount to one or more of them for the taxation year, which amount or the aggregate of which amounts, as the case may be, shall be equal to the maximum allowable credit for the taxation year, and in any such case, notwithstanding subsection (7), the maximum allowable credit for the taxation year for each of the associated corporations is the amount allocated to it under this subsection.

(9) Subsection (7) does not apply to a corporation (in this subsection called the "taxpayer corporation") for a year in relation to another corporation with which it is associated in that taxation year if, throughout that year,

- (a) the taxpayer corporation was controlled by the other corporation,
- (b) the taxpayer corporation was, for the purposes of the federal Act, resident in Canada and controlled in Canada,
- (c) a class or classes of equity shares of the taxpayer corporation having full voting rights under all circumstances were listed on a prescribed stock exchange in Canada and the class or classes repre-



sented in the aggregate not less than 50 per cent of that part of the paid-up capital of the taxpayer corporation that was represented by all its issued and outstanding equity shares, and

- (d) no one person, either alone or in combination with any person related to him at any time within the year, owned equity shares representing in the aggregate more than 90 per cent of that part of the paid-up capital of the taxpayer corporation that was represented by all of its issued and outstanding equity shares.

(10) In subsection (9),

- (a) "paid-up capital" and "equity share" have the meanings assigned to them respectively by section 89, subsection (1) and section 257, subsection (2) of the federal Act;
- (b) "prescribed stock exchange in Canada" means a stock exchange in Canada that is prescribed for the purposes of any provision of the federal Act pursuant to the federal regulations.

(11) Where the attributed Alberta royalty income of a taxpayer for a taxation year is greater than an amount that is reasonably attributable to the taxpayer's income in that taxation year derived from the production of petroleum and natural gas subject to the payment of royalty to the Crown in right of Alberta, the Provincial Treasurer may reduce the royalty tax credit to which the taxpayer would otherwise be entitled to an amount which, in his opinion, would have been the royalty tax credit if the taxpayer's attributed Alberta royalty income for the taxation year were in an amount that is reasonably attributable to his income in that taxation year derived from the production of petroleum and natural gas subject to the payment of royalty to the Crown in right of Alberta.

(12) Where a taxpayer is entitled to a royalty tax credit for a taxation year, the Provincial Treasurer

- (a) may deduct the credit from any tax, interest or penalty otherwise owing by the taxpayer for that or any preceding taxation year under this Act, the *Canada Pension Plan*, the *Unemployment Insurance Act, 1971* (Canada), the income tax statute of an agreeing province or the federal Act, or
- (b) if the credit exceeds any deductions under clause (a), shall pay the amount of such excess to the taxpayer from the taxes, interest and penalties collected under this Act.



(13) A taxpayer is not entitled to a royalty tax credit in respect of a taxation year unless application is made therefor by the taxpayer to the Provincial Treasurer in the manner and at the time prescribed by the Provincial Treasurer.

(14) The Provincial Treasurer may prescribe forms for the purpose of this section.

6. (1) *Section 15 is amended*

(a) *as to subsection (1), by striking out clause (b) and by substituting the following:*

(b) the remainder of the tax as estimated by it under section 10

(i) on or before the last day of the period, where an amount was deducted by virtue of section 125 of the federal Act in computing the tax payable under Part I of that Act by the corporation for its immediately preceding taxation year, or

(ii) on or before the last day of the 14th month of the period, in any other case.

(b) *by striking out subsection (2) and by substituting the following:*

(2) Where a collection agreement is entered into, a corporation shall pay an amount computed with reference to

(a) subsection (1), clause (a), subclause (i), if the corporation pays an amount computed under section 157, subsection (1), paragraph (a), subparagraph (i) of the federal Act,

(b) subsection (1), clause (a), subclause (ii), if the corporation pays an amount under section 157, subsection (1), paragraph (a), subparagraph (iii) of the federal Act, and

(c) subsection (1), clause (a), subclause (iii), if the corporation pays an amount under section 157, subsection (1), paragraph (a), subparagraph (ii) of the federal Act.

(2) *Subsection (1), clause (a) applies to the taxation years ending after November 18, 1974.*

7. *This Act comes into force on the day upon which it is assented to.*

**6. Section 15, subsections (1) and (2) presently read:**

15. (1) Every corporation shall, during the 15-month period ending three months after the close of each taxation year, pay to the Provincial Treasurer

(a) either

(i) on or before the last day of each of the first 12 months in that period, an amount equal to one-twelfth of its tax payable for that year as estimated by it, or

(ii) on or before the last day of each of the first two months in that period, an amount equal to one-twelfth of its tax payable under this Act for the second taxation year preceding the year, and on or before the last day of each of the next following ten months in that period, an amount equal to one-tenth of the amount remaining after deducting the amount computed pursuant to this subclause in respect of the first two months in the period from its tax payable under this Act for the immediately preceding year, or

(iii) on or before the last day of each of the first 12 months in that period, an amount equal to one-twelfth of its tax payable under this Act for the immediately preceding year,

and

(b) on or before the last day of the period, the remainder of the tax as estimated under section 10.

(2) Where a collection agreement is entered into, a corporation shall pay an amount computed with reference to

(a) subsection (1), clause (a), subclause (i), if the corporation pays an amount computed under section 157, subsection (1), paragraph (a), subparagraph (i) of the federal Act, and

(b) subsection (1), clause (a), subclause (ii), if the corporation pays an amount computed under section 157, subsection (1), paragraph (a), subparagraph (ii) of the federal Act.

The amendment to subsection (1), clause (b) is made necessary by the amendments made recently by Parliament in clause 104(2) of Bill C-49 with respect to corporation income tax installment payments.

The new subsection (2) reflects changes made in section 157(1) (a) of the federal Act and to section 15(1) of the Alberta Act in 1974.