



Province of Alberta

FISCAL MEASURES AND TAXATION ACT, 2020

Statutes of Alberta, 2020
Chapter 3

Assented to March 20, 2020

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Bill 5

FISCAL MEASURES AND TAXATION ACT, 2020

Chapter 3

(Assented to March 20, 2020)

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

Education Act

Amends SA 2012 cE-0.3

1(1) The *Education Act* is amended by this section.

(2) The following is added after section 143:

Accumulated surplus fund

143.1(1) A board that establishes an accumulated surplus fund that is not a capital reserve fund or an endowment fund may make a payment, or transfer money, from the fund only with the prior approval of the Minister.

(2) The Minister may, on any conditions that the Minister prescribes, permit or require a board to make a payment, or transfer money, from an accumulated surplus fund referred to in subsection (1).

(3) This section is repealed on September 1, 2022.

(3) This section has effect on September 1, 2020.

Insurance Act

Amends RSA 2000 cl-3

2(1) The *Insurance Act* is amended by this section.

(2) Section 637 is amended by adding the following after clause (m):

- (n) “side account” means an account that is associated with or part of a contract of life insurance and is intended to hold amounts in excess of the maximum amount permitted to be held under a contract of life insurance that is exempt from accrual taxation pursuant to the *Income Tax Act* (Canada).

(3) The following is added after section 668:

Amounts held under life insurance policies

668.1(1) In this section, “actuarial basis” means the assumptions and methods generally accepted and used by Fellows of the Canadian Institute of Actuaries to establish the cost of life insurance in relation to the contingencies of human life.

(2) Subject to any lesser limit provided under the terms of a contract of life insurance,

- (a) with respect to a contract of life insurance that is exempt from accrual taxation pursuant to the *Income Tax Act* (Canada), the amount that may be held in a side account must not exceed the sum of
 - (i) the amount that would be required to pay future costs of insurance, related premium taxes, administrative fees or charges, and
 - (ii) the additional amount, if any, that could in the future be held under the contract of life insurance on an accrual tax exempt basis under the *Income Tax Act* (Canada),
- (b) with respect to a contract of life insurance that is not exempt from accrual taxation pursuant to the *Income Tax Act* (Canada), the amount that may be held under a contract of life insurance together with any associated side account must not exceed the amount required to pay future costs of insurance, related premium taxes, administrative fees or charges, and
- (c) the amounts in clauses (a) and (b) are as determined from time to time by the insurer on an actuarial basis using the remaining lifetime of the person then insured under the contract of life insurance.

(3) Any amount that exceeds the limits set out in subsection (2) is not and has never been a premium and cannot be held under a contract of life insurance or in an associated side account regardless of the date of issue of the contract.

(4) This section has retroactive effect to a contract of life insurance that exists as of the coming into force of this section, and any such contract is deemed to be amended to the extent necessary to make the contract consistent with this section.

(5) This section does not apply to annuities.

Post-secondary Learning Act

Amends SA 2003 cP-19.5

3(1) The *Post-secondary Learning Act* is amended by this section.

(2) Section 59(3) is amended by striking out “approved under section 103” **and substituting** “contained in the investment management agreement entered into under section 78”.

(3) Section 67(1.1) is amended by striking out “Lieutenant Governor in Council” **and substituting** “Minister”.

(4) Section 73 is amended by striking out “Lieutenant Governor in Council” **wherever it occurs and substituting** “Minister”.

(5) Section 78 is repealed and the following is substituted:

Investment management agreements, budgets and capital plans

78(1) In this section and sections 79 and 80, “board” includes the governing body of a publicly funded private post-secondary institution assigned to the Independent Academic Institutions sector under section 102.2(3)(b).

(2) A board shall enter into an investment management agreement with the Minister that includes

- (a) the mandate of the institution,
- (b) performance metrics for the institution, and
- (c) anything else determined by the Minister.

(3) The mandate of a public post-secondary institution referred to in subsection (2)(a) must be consistent with the role of the sector to which the public post-secondary institution has been assigned under section 102.2(2).

(4) The Minister may establish the form of the agreement referred to in subsection (2) and the date by which the agreement must be entered into.

(5) The board shall prepare and approve a budget, which must be submitted to the Minister on or before the date specified by the Minister.

(6) The board of a public post-secondary institution shall not submit a budget in which consolidated operating expense exceeds consolidated operating revenue unless the board has the written approval of the Minister to do so.

(7) The board of a public post-secondary institution must prepare and approve a capital plan, which must be submitted to the Minister on or before the date specified by the Minister.

(8) The following are deemed to satisfy the requirement of a board as the governing body of an accountable organization under section 10(2) of the *Fiscal Planning and Transparency Act* to prepare and give to the Minister a business plan for each fiscal year in the form, at a time and containing the information acceptable to the Minister:

- (a) the entering into by the board with the Minister of an agreement under subsection (2) that applies to that fiscal year;
- (b) the preparation and approval by the board of a budget under subsection (5) and of a capital plan under subsection (7), and the submission of the budget and the capital plan to the Minister in the form and containing the information acceptable to the Minister on or before the date specified by the Minister.

(6) Section 103 is repealed.

Public Education Collective Bargaining Act

Amends SA 2015 cP-36.5

4(1) The *Public Education Collective Bargaining Act* is amended by this section.

(2) Section 1(1)(k) is repealed and the following is substituted:

- (k) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;

(3) Section 2 is amended

- (a) by renumbering section 2 as section 2(1);**

(b) in subsection (1) by striking out “The” and substituting “Subject to this Act, the”;

(c) by adding the following after subsection (1):

(2) Part 2, Division 8 of the *Labour Relations Code* does not apply to TEBA or ATA.

(4) Section 9 is amended

(a) in subsection (1) by adding “under section 8(5) or (6)” after “a local matter”;

(b) by adding the following after subsection (2):

(3) TEBA and ATA, or the arbitrator under section 8(6), may not negotiate, or adjudicate, which matters are central matters or local matters in any manner that is inconsistent with this section.

(5) Section 11(4) is amended by striking out “by the trustees designated under section 16(3)” and substituting “by TEBA”.

(6) Section 15(2) is repealed and the following is substituted:

(2) There shall be a board of directors of TEBA appointed or elected in accordance with the regulations, which shall include

- (a) 2 or more directors appointed by the Minister, and
- (b) 2 or more directors who are trustees elected by and from among the trustees designated under section 16(3).

(2.1) The TEBA chair and acting chair shall be designated by order by the Minister from among the directors referred to in subsection (2)(a).

(2.2) The TEBA vice-chair and acting vice-chair shall be designated by and from among the directors referred to in subsection (2)(b).

(7) Section 19 is amended

(a) in clause (b)

- (i) by striking out “selection” and substituting “election”;**
- (ii) by striking out “and its officers”;**

(b) in clause (h) by adding the following after subclause (i):

- (i.1) who may establish the fees;
- (c) in clause (m) by striking out “initial”;
- (d) in clause (t) by striking out “the methods of”.

Tourism Levy Act

Amends RSA 2000 cT-5.5

5(1) The *Tourism Levy Act* is amended by this section.

(2) Section 1 is amended

(a) in subsection (1)

(i) in clause (a)

(A) by striking out “club or other similar establishment in Alberta,” **and substituting** “residential unit, club or other similar establishment in Alberta, or lodging prescribed in the regulations,”;

(B) by adding the following after subclause (i):

(i.1) lodging that is not listed on an online marketplace and for which the purchase price for the unit of lodging is less than \$30 per day, or less than \$210 per week;

(i.2) lodging that is provided by a person who does not list the lodging on an online marketplace and

(A) whose gross revenue in the previous 12 months from the provision of lodging in Alberta is less than \$5000,

(B) whose reasonable estimate of gross revenue in the 12 months after the 12 months referred to in paragraph (A) from the provision of lodging in Alberta is less than \$5000, and

(C) subject to the regulations, who has satisfied the requirements set out in paragraphs (A) and (B) at all times since this subclause came into effect;

(C) by repealing subclause (ii);

(D) by repealing subclause (vii) and substituting the following:

- (vii) lodging that is prescribed in the regulations as not being accommodation;

(ii) by adding the following after clause (f):

- (f.1) “online broker” means the operator of an online marketplace;
- (f.2) “online marketplace” means, subject to the regulations, a digital accommodation platform through which transactions in relation to accommodation located in Alberta are enabled or facilitated and by which payment for the accommodation is collected on behalf of the operator;

(iii) in clause (g) by striking out “means” and substituting “means, except in clause (f.1),”;

(iv) in clause (i) by striking out “the consideration that is given for accommodation” and substituting “the consideration, including any fee or type of fees prescribed in the regulations, that is given for accommodation”;

(v) by adding the following after clause (j):

- (j.1) “residential unit” means
- (i) a house, cottage or another similar dwelling,
 - (ii) a duplex or townhouse,
 - (iii) an apartment or condominium,
 - (iv) a part of a multi-use building that is used for a residential use,
 - (v) land that is attributable to a building, or part of a building, referred to in any of subclauses (i) to (iv) and that is used for a residential use, or
 - (vi) a type of building, structure or land prescribed in the regulations;

(b) by repealing subsection (2).

(3) Section 2(1.1) is repealed and the following is substituted:

(1.1) Where an operator provides lodging free of charge to a person (in this subsection and subsection (3.1) referred to as the “contractor”) performing services for the operator, or to a person engaged by the contractor for the purpose of performing those services, the contractor shall pay a tourism levy at the applicable rate specified in subsection (1) based on the purchase price

- (a) of similar lodging rented or available for rent to another person by the operator on the day or days the lodging is provided, or
- (b) that is, in the Minister’s opinion, attributable to the lodging.

(4) Section 2.1(2) is amended by striking out “If a person” and substituting “Subject to the regulations, if a person”.**(5) Section 3.1 is amended**

- (a) **in subsection (1) by striking out “An operator” and substituting “Subject to the regulations, an operator”;**
- (b) **in subsection (3) by striking out “subsection (1),” and substituting “subsection (1) or if the regulations provide that subsection (1) does not apply to the operator.”**

(6) The following is added after section 3.1:**Assumption of duties by online broker**

3.2(1) Subject to the regulations, the Minister may authorize an online broker to register, to collect tourism levies, to remit tourism levies or to file returns, or to do anything else that an operator is required to do under this Act, on behalf of an operator, in respect of the sale of accommodation by the operator enabled or facilitated by the online broker’s online marketplace.

(2) An online broker who has been authorized to act on behalf of an operator under subsection (1) shall notify, in accordance with the regulations, the operator of the duties that the online broker has been authorized to discharge on the operator’s behalf.

(3) Subject to the regulations, if an online broker fails to discharge a duty the online broker is authorized under subsection (1) to discharge on behalf of the operator, both the operator and the online broker are jointly and severally liable

for any levy, penalty, interest or other amount related to, arising from or connected with the failure to discharge the duty.

(7) Section 10 is amended by adding the following after subsection (3):

(3.1) The Minister shall apply any amount received under this section to the account of the debtor and shall notify the debtor of the amount received.

(8) Section 22 is amended

- (a) in subsection (1) by striking out** “by a notice served personally or by registered letter” **and substituting** “by serving a written notice,”;
- (b) in subsection (2) by striking out** “by a notice served personally or by registered letter,” **and substituting** “by serving a written notice,”.

(9) Section 23.1 is amended

- (a) by repealing subsection (2) and substituting the following:**

(2) Subject to the regulations, an operator must file a return for a collection period by way of electronic filing.

- (b) in subsection (3) by striking out** “by an operator referred to in subsection (2)”.

(10) Section 30 is repealed and the following is substituted:

Service, etc.

30 Except where this Act provides otherwise, where a notice or other document is to be served on or is to be sent or given to a person by the Minister or an officer under this Act, the notice or document may be served on or sent or given to the person by personal service, electronic transmission, registered or regular mail or any method specified in the regulations.

(11) Section 40(1) is amended

- (a) in clause (b) by striking out** “providing for a refund” **and substituting** “respecting the refunding”;
- (b) by adding the following after clause (b):**
 - (b.1)** respecting the application of the requirement to refund an overpayment under section 3.1(1) to operators or classes of operators, including the circumstances under

which section 3.1(1) does not apply to the operators or classes of operators;

(c) by repealing clause (d) and substituting the following:

- (d) prescribing lodgings or classes of lodging as being or not being an accommodation for the purposes of this Act;
- (d.1) respecting the circumstances in which the requirement set out in section 1(1)(a)(i.2)(C) does not apply for the purpose of determining whether lodging that is provided by a person who does not list the lodging on an online marketplace is excluded from the definition of accommodation, including authorizing the Minister to determine such circumstances;
- (d.2) respecting the definition of online marketplace;
- (d.3) prescribing fees or types of fees as being consideration that is given for accommodation when determining purchase price;
- (d.4) prescribing types of buildings, structures or land as being a residential unit for the purposes of this Act;
- (d.5) respecting the assumption of duties by an online broker under section 3.2, including
 - (i) how an online broker may obtain the authorization of the Minister to act on behalf of an operator,
 - (ii) the notification of an operator of the duties that the online broker has been authorized to discharge on the operator's behalf, and
 - (iii) the liability of an operator or of an online broker when the online broker fails to discharge a duty the online broker is authorized to discharge on behalf of the operator;

(d) by repealing clause (o) and substituting the following:

- (o) respecting the registration of persons under section 2.1, including the circumstances in which a person selling, offering for sale or otherwise providing accommodation in respect of more than one establishment is not required to be registered in respect of each establishment;
- (p) respecting the requirement to file a return for a collection period by way of electronic filing, including

the circumstances in which an operator is not required to file a return for a collection period by way of electronic filing;

- (q) respecting the service, sending and giving of notices and other documents under this Act.

(12) This section comes into force on Proclamation.

