



Province of Alberta

# **ALBERTA PERSONAL INCOME TAX ACT**

Revised Statutes of Alberta 2000  
Chapter A-30

Current as of July 23, 2020

Office Consolidation

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### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2019 c20 s9 adds s44.2.

### Regulations

The following is a list of the regulations made under the *Alberta Personal Income Tax Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Alberta Personal Income Tax Act</b>		
Personal Income Tax Withholding.....	34/2001	6/2020

# **ALBERTA PERSONAL INCOME TAX ACT**

## **Chapter A-30**

*(NOTE: The taxation years affected by a provision of this Act that is added, repealed or amended are included in the original amending Acts, which are referred to at the end of each section.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:

### Definitions

**1(1)** In this Act,

- (a) “agreeing province or territory” means a province or territory that has entered into an agreement with the Government of Canada under which the Government of Canada will collect taxes payable under that province’s or territory’s income tax statute and will make payments to that province or territory in respect of the taxes so collected;
- (b) “Alberta regulation” means the regulations made by the Lieutenant Governor in Council under this Act;
- (c) “business income in Alberta” means income for the taxation year from a business with a permanent establishment in Alberta as determined in accordance with section 2603 of the federal regulation;
- (d) “business income outside Alberta” means income for the taxation year from a business with a permanent establishment outside Alberta as determined in accordance with section 2603 of the federal regulation;
- (e) “Canada Customs and Revenue Agency” means the Canada Customs and Revenue Agency established under the *Canada Customs and Revenue Agency Act* (Canada);
- (f) “Commissioner of Customs and Revenue” means the Commissioner of Customs and Revenue appointed under the *Canada Customs and Revenue Agency Act* (Canada);
- (g) “Court” means the Court of Queen’s Bench;
- (h) “federal Act” means the *Income Tax Act* (Canada);
- (i) “federal regulation” means the *Income Tax Regulations*, C.R.C., c. 945, made under the federal Act;
- (j) “income for the year” means
  - (i) in the case of an individual resident in Canada during only part of the taxation year in respect of whom section 114 of the federal Act applies, the amount determined under paragraph 114(a) of the federal Act in respect of the individual for the year,

- (ii) in the case of an individual who at no time in the taxation year is resident in Canada, the individual's income for the year as determined under paragraphs 115(1)(a), (b) and (c) of the federal Act, and
- (iii) in the case of any other individual, the individual's income for the year as determined in accordance with and for the purposes of Part I of the federal Act;
- (k) "income tax statute" means, with reference to an agreeing province or territory, the law of that province or territory that imposes an income tax on individuals;
- (l) "individual" means a person other than a corporation and includes a trust or estate;
- (m) "Minister" means the Minister of National Revenue for Canada;
- (n) "old Act" means the *Alberta Income Tax Act* (RSA 1980 cA-31);
- (o) "permanent establishment" means a permanent establishment as defined in section 2600 of the federal regulation;
- (p) "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, or
  - (ii) in any other case, prescribed by an Alberta regulation;
- (p.1) "Provincial Minister" means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (p.2) "qualifying environmental trust" means a qualifying environmental trust as defined in subsection 248(1) of the federal Act, other than a trust described in paragraph 149(1)(z.1) or (z.2) of the federal Act;
- (q) "Receiver General" means the Receiver General of Canada;
- (r) "refundable tax credit" means a tax credit under Part 1, Division 4 or Division 4.01 or a rebate under Part 1, Division 4.2;



- (s) “specified percentage for the year” means the percentage specified in section 4;
- (t) “tax collection agreement” means a tax collection agreement between the Government of Canada and the Government of Alberta entered into under section 62 or continued under section 86;
- (u) “tax payable under this Act” means the tax payable as fixed by assessment or reassessment subject to variation on objection or on appeal, if any, in accordance with this Act;
- (v) “taxable income” means taxable income determined under section 5;
- (w) “taxation year”, in respect of an individual, means the period determined under the federal Act as the individual’s taxation year.

**(2)** Except to the extent that it is at variance with the definitions and interpretation provisions contained in this section, Part XVII of the federal Act applies for the purposes of this Act.

**(3)** In addition to any other variation under this Act, if a provision of the federal Act or the federal regulation applies for the purposes of this Act, the following applies:

- (a) if a reference is made in that provision to another provision of the federal Act or the federal regulation and the other provision does not apply for the purposes of this Act because a provision of this Act applies instead of it, the reference to the other provision is deemed to be a reference to the provision of this Act that applies instead of it;
- (b) if a reference is made in that provision to another provision of the federal Act or the federal regulation and the other provision does not apply for the purposes of this Act, that provision is to be read without reference to the other provision;
- (c) if a reference is made in that provision to another provision of the federal Act or the federal regulation and the other provision applies in a different manner for the purposes of the federal Act or the federal regulation than it does for the purposes of this Act, the reference is deemed to be a reference to the other provision as it applies for the purposes of this Act;

- (d) a reference in that provision to tax payable under Part I of the federal Act is to be read as a reference to tax payable under this Act;
  - (e) a reference in that provision to tax otherwise payable is to be read as a reference to tax payable under this Act unless that provision otherwise provides;
  - (f) if that provision contains a reference to tax under any of Parts I.1 to XIV of the federal Act, it is to be read
    - (i) without reference to tax under any of those Parts, and
    - (ii) without reference to any portion of that provision that applies only to or in respect of tax under any of those Parts;
  - (g) if that provision contains a reference to any of Parts I.1 to XIV of the federal Act or to a provision in any of those Parts, it is to be read
    - (i) without reference to that Part or provision, as the case may be, and
    - (ii) without reference to any portion of it that applies only because of the application of any of those Parts or a provision in any of those Parts;
  - (h) a reference in that provision to a provision of the federal regulation that applies for the purposes of this Act is to be read as a reference to the regulation as it applies for the purposes of this Act;
    - (i) a reference in that provision
      - (i) to the Tax Court of Canada is to be read as a reference to the Court of Queen's Bench, and
      - (ii) to the Federal Court of Appeal is to be read as a reference to the Court of Appeal of Alberta;
    - (j) a reference in that provision to the Minister or the Receiver General is to be read as a reference to the Provincial Minister.
- (4)** In any case of doubt, the provisions of this Act are to be applied and interpreted in a manner consistent with similar provisions of the federal Act.

(5) Section 257 of the federal Act applies for the purposes of this Act.

RSA 2000 cA-30 s1;2002 c6 s2;2003 c13 s2;2005 c37 s2;  
2015 c21 Sched. 2 s2;2016 c16 Sched. 3 s3;2016 cI-10.5 s82

#### **Application**

2 Except provisions of this Act that state otherwise, this Act applies to the 2001 taxation year and subsequent taxation years.

2000 cA-35.03 s2

## **Part 1 Income Tax**

### **Division 1 Liability for Tax**

#### **Liability for tax**

3(1) An individual

- (a) who was resident in Alberta on the last day of a calendar year,
- (b) who was resident in a province other than Alberta or in a territory on the last day of a calendar year and had business income in Alberta in that calendar year, or
- (c) who, not being resident in Canada on the last day of a calendar year, had income for the year

must pay tax as required by this Act.

(2) Subject to section 3.1, no tax is payable under this Act by an individual for a period when that individual was exempt from tax because of subsection 149(1) of the federal Act.

(3) In the case of an individual who died or became bankrupt during the calendar year, the words “calendar year” in subsection (1) shall be read as “taxation year”.

RSA 2000 cA-30 s3;2006 c11 s2; 2015 c21 Sched. 2 s2

#### **Liability for income tax re qualifying environmental trust**

3.1 A qualifying environmental trust that is resident in Alberta on the last day of a taxation year must pay tax as required by section 6.2 for that taxation year.

2015 c21 Sched. 2 s2

## Division 2 Computation of Tax

### Specified percentage

**4** The specified percentage for the 2001 taxation year and subsequent taxation years is 10%.

RSA 2000 cA-30 s4;2001 c13 s3

### Taxable income

**5(1)** An individual's taxable income for the purposes of this Act is equal to the taxable income of the individual for the purposes of computing tax payable under Part I of the federal Act.

**(2)** An individual's taxable income earned in Canada for the purposes of this Act is equal to the individual's taxable income earned in Canada for the purposes of computing tax payable under Part I of the federal Act.

RSA 2000 cA-30 s5;2003 c13 s3

**6** Repealed 2019 c20 s9(2).

### Amount of tax payable for 2015 and subsequent taxation years

**6.1(1)** The tax payable under this Act for a taxation year by an individual who was resident in Alberta on the last day of the calendar year and had no business income outside Alberta in the taxation year is

- (a) if the individual is an individual other than a trust subject to section 122 of the federal Act,
  - (i) if the individual's taxable income is less than or equal to \$131 220, 10.0% of the individual's taxable income,
  - (ii) if the individual's taxable income is greater than \$131 220 but less than or equal to \$157 464, the total of the highest amount that might be determined for an individual under subclause (i) and 12.0% of the amount by which the individual's taxable income exceeds \$131 220,
  - (iii) if the individual's taxable income is greater than \$157 464 but less than or equal to \$209 952, the total of the highest amount that might be determined for an individual under subclause (ii) and 13.0% of the amount by which the individual's taxable income exceeds \$157 464,

- (iv) if the individual's taxable income is greater than \$209 952 but less than or equal to \$314 928, the total of the highest amount that might be determined for an individual under subclause (iii) and 14.0% of the amount by which the individual's taxable income exceeds \$209 952, and
  - (v) if the individual's taxable income is greater than \$314 928, the total of the highest amount that might be determined for an individual under subclause (iv) and 15.0% of the amount by which the individual's taxable income exceeds \$314 928;
- (b) if the individual is a trust subject to section 122 of the federal Act, the amount determined by the formula

$$A \times B$$

where

A is the percentage specified for the purposes of clause (a)(v) for the year, and

B is the trust's taxable income for the year.

**(2)** Repealed 2019 c20 s9(3).

**(3)** The tax payable under this Act for a taxation year by an individual who was resident in Alberta on the last day of the calendar year and had business income outside Alberta in the taxation year is the amount determined by the formula

$$T \times (C - D)/C$$

where

T is the tax that would be payable if subsection (1) applied to the individual for the taxation year;

C is the individual's income for the year as determined under section 1(l)(j)(i) or (iii), as the case may be;

D is the individual's business income outside Alberta for the year that is included in amount C.

**(4)** The tax payable under this Act for a taxation year by an individual who was resident in a province or territory other than Alberta on the last day of the calendar year and had business income in Alberta in the taxation year is the amount determined by the formula

$T \times C/D$

where

- T is the tax that would be payable if subsection (1) applied to the individual for the taxation year;
- C is the individual's business income in Alberta for the year;
- D is the individual's income for the year determined under section 1(1)(j)(i) or (iii), as the case may be.

**(5)** The tax payable under this Act for a taxation year by an individual who

- (a) was resident in Alberta throughout part of the calendar year,
- (b) was not resident in any other province or territory after ceasing to be a resident of Alberta, and
- (c) was resident in a jurisdiction outside Canada on the last day of the calendar year,

is the amount determined by the formula

$T \times (C - D)/C$

where

- T is the tax that would be payable if subsection (1) applied to the individual for the taxation year;
- C is the individual's income for the year as determined under section 1(l)(j)(i);
- D is the individual's business income outside Alberta for the year that is included in amount C.

**(6)** The tax payable under this Act for a taxation year by an individual who at no time in the year was resident in Canada is the amount determined by the formula

$T \times C/D$

where

- T is the tax that would be payable if subsection (1) applied to the individual for the taxation year and the individual's taxable income for the year was equal to the individual's taxable income earned in Canada for the year;

- C is the total of the individual's income for the year earned in Alberta as determined under section 2602 of the federal regulation and the taxable capital gain from the disposition of taxable Alberta property as determined by the Alberta regulation;
- D is the individual's income for the year as determined under section 1(1)(j)(ii).

**(7)** The tax payable under this Act for a taxation year by an individual who

- (a) was resident in a jurisdiction outside Canada on the last day of the calendar year,
- (b) was resident in a province or territory other than Alberta in the calendar year immediately prior to becoming a resident in a jurisdiction outside Canada, and
- (c) had business income in Alberta in the taxation year

is the amount determined by the formula

$$T \times C/D$$

where

- T is the tax that would be payable if subsection (1) applied to the individual for the taxation year;
- C is the individual's business income in Alberta for the year;
- D is the individual's income for the year as determined under section 1(1)(j)(i).

**(8)** In the case of an individual who died or became bankrupt during the calendar year, the words "calendar year" in subsections (1), (3), (4), (5) and (7) shall be read as "taxation year".

**(9)** A trust that was resident on the last day of the calendar year and is subject to tax pursuant to paragraph 122(1)(c) of the federal Act shall pay an additional tax for the year for the purposes of this Act equal to the amount determined by the formula

$$A - B$$

where

- A is the amount that would be determined for B for the year if

- (i) the rate of tax payable under this Act by the trust for each taxation year referred to in the description of B were 15.0%, and
  - (ii) the trust's taxable income for a particular taxation year referred to in the description of B were reduced by the total of
    - (A) the amount, if any, that was paid or distributed in satisfaction of all or part of an individual's interest as a beneficiary under the trust if
      - (I) the individual was an electing beneficiary, as defined by the federal Act, of the trust for the particular year,
      - (II) the payment or distribution can reasonably be considered to be made out of that taxable income, and
      - (III) the payment or distribution was made in a taxation year referred to in the description of B,
    - (B) the amount that is the portion of the tax payable under the federal Act by the trust for the particular year that can reasonably be considered to relate to the amount determined under paragraph (A), and
    - (C) the amount that is the portion of the tax payable under the law of the province in which the trust is resident for the particular year, that can reasonably be considered to relate to the amount determined under paragraph (A);
- B is the total of all amounts each of which is the amount of tax payable under this Act by the trust for a taxation year that precedes the year if that preceding taxation year is
- (i) the later of
    - (A) the first taxation year for which the trust was a qualified disability trust, and
    - (B) the last taxation year, if any, for which subsection 122(2) of the federal Act applied to the trust,
- or



- (ii) a taxation year that ends after the taxation year described in subclause (i).

2015 c16 s2;2019 c20 s9(3)

#### **Tax payable by qualifying environmental trust**

**6.2(1)** The tax payable under this Act for a taxation year by a qualifying environmental trust is the amount determined by the formula

$A \times B$

where

- A is the amount of the qualifying environmental trust's income that is subject to tax under Part XII.4 of the federal Act for the taxation year, and
- B is the percentage that is the rate of tax under section 21 of the *Alberta Corporate Tax Act* applicable to the amount taxable in Alberta for the year for a corporation that had the same taxation year.

**(2)** For the purposes of this section, Part XII.4 of the federal Act applies.

2015 c21 Sched. 2 s2

### **Division 3 Tax Credits, Rebates and Other Deductions**

#### **Deductions**

**7** The amounts that may be deducted under this Division and Division 6 may be deducted only from the amount of tax payable under section 6.1, except that amounts under sections 21 and 23 may also be deducted from tax payable under section 47.

RSA 2000 cA-30 s7;2015 c16 s2;2019 c20 s9(4)

#### **Personal credits**

**8(1)** For the purpose of computing the tax payable under this Act for a taxation year by an individual, there may be deducted the amount determined by the formula

$A \times B$

where

A is the specified percentage for the year;

B is the total of

**Marital status**

- (a) in the case of an individual who at any time in the year is a married person or a person who is in a common-law partnership who supports the individual's spouse or common-law partner and is not living separate and apart from the spouse or common-law partner because of a breakdown of their marriage or common-law partnership, an amount equal to the total of
- (i) \$19 369, and
- (ii) an amount determined by the formula

$$\$19\,369 - C$$

where

- C is the income of the individual's spouse or common-law partner for the year or, where the individual and the individual's spouse or common-law partner are living separate and apart at the end of the year because of a breakdown of their marriage or common-law partnership, the spouse's or common-law partner's income for the year while married or in the common-law partnership and not so separated,

**Wholly dependent person**

- (b) in the case of an individual who does not claim a deduction for the year under clause (a) and who, at any time in the year,
- (i) is
- (A) a person who is unmarried and who does not live in a common-law partnership, or
- (B) a person who is married or in a common-law partnership, who neither supported nor lived with his or her spouse or common-law partner and who is not supported by that spouse or common-law partner, and
- (ii) whether alone or jointly with one or more other persons, maintains a self-contained domestic establishment (in which the individual lives) and actually supports in that establishment a person who, at that time, is

- (A) except in the case of a child of the individual, resident in Canada,
- (B) wholly dependent for support on the individual, or on the individual and the other person or persons, as the case may be,
- (C) related to the individual, and
- (D) except in the case of a parent or grandparent of the individual, either under 18 years of age or so dependent because of mental or physical infirmity,

an amount equal to the total of

- (iii) \$19 369, and
- (iv) an amount determined by the formula

$\$19\,369 - D$

where

D is the income for the year of the dependent person,

**Basic personal credit - single status**

- (c) except in the case of an individual entitled to a deduction under clause (a) or (b), \$19 369,

**In-home care of relative credit**

- (d) in the case of an individual who, at any time in the year alone or jointly with one or more persons, maintains a self-contained domestic establishment that is the ordinary place of residence of the individual and of a particular person
  - (i) who has attained the age of 18 years before that time,
  - (ii) who
    - (A) is the individual's child or grandchild, or
    - (B) is resident in Canada and is the parent, grandparent, brother, sister, aunt, uncle, nephew or niece of the individual or of the individual's spouse or common-law partner, and
  - (iii) who

- (A) in the case of the individual's parent or grandparent, has attained the age of 65 years before that time, or
- (B) in the case of any of the relatives referred to in subclause (ii), is dependent on the individual because of that particular person's mental or physical infirmity,

the amount determined by the formula

$$\$29\,038 - D.1$$

where

D.1 is the greater of \$17 826 and the particular person's income for the year,

**Dependant credit**

- (e) for each dependant of the individual for the year who
  - (i) attained the age of 18 years before the end of the year, and
  - (ii) was dependent on the individual because of mental or physical infirmity,

the amount determined by the formula

$$\$18\,619 - E$$

where

E is the greater of \$7407 and the income for the year of the dependant, and

**Infirm dependant credit**

- (f) in the case of an individual entitled to a deduction in respect of a person because of clause (b) and who would also be entitled but for subsection (2)(d) to a deduction under clause (d) or (e) in respect of the same person, the amount by which the amount that would be determined under clause (d) or (e) in respect of the person exceeds the amount determined under clause (b) in respect of the person.

(2) The following rules apply for the purposes of subsection (1):

- (a) no amount may be deducted under subsection (1) because of clauses (a) and (b) of the description of B in subsection (1)

by an individual in a taxation year for more than one other person;

- (b) no amount may be deducted under subsection (1) because of clause (b) of the description of B in subsection (1) by an individual for a taxation year for a person in respect of whom an amount is deducted because of clause (a) of that description by another individual for the year if, throughout the year, the person and that other individual are married to each other or in a common-law partnership with each other and are not living separate and apart because of a breakdown of their marriage or the common-law partnership, as the case may be;
- (c) not more than one individual is entitled to a deduction under subsection (1) because of clause (b) of the description of B in subsection (1) for a taxation year in respect of the same person or the same domestic establishment and where 2 or more individuals otherwise entitled to such a deduction fail to agree as to the individual by whom the deduction may be made, no such deduction for the year shall be allowed to either or any of them;
- (d) if an individual is entitled to a deduction under subsection (1) because of clause (b) of the description of B in subsection (1) for a taxation year in respect of any person, no amount may be deducted because of clause (d) or (e) of that description by any individual for the year in respect of the person;
- (e) if an individual is entitled to a deduction under subsection (1) because of clause (d) of the description of B in subsection (1) for a taxation year in respect of any person, the person is deemed not to be a dependant of any individual for the year for the purpose of clause (e) of that description;
- (f) if more than one individual is entitled to a deduction under subsection (1) because of clause (d) or (e) of the description of B in subsection (1) for a taxation year in respect of the same person,
  - (i) the total of all amounts so deductible for the year shall not exceed the maximum amount that would be so deductible for the year by any one of those individuals for that person if that individual were the only individual entitled to deduct an amount for the year because of clause (d) or (e) for that person, and

- (ii) if the individuals cannot agree as to what portion of the amount each can so deduct, the Minister may fix the portions;
  - (g) a reference to income for the year is to be read as a reference to that income determined as if, in computing that income, no amount were deductible under paragraph 20(1)(ww) of the federal Act.
- (3)** No amount may be deducted under subsection (1) in computing an individual's tax payable for a taxation year in respect of a person where the individual is required to pay a support amount within the meaning assigned by subsection 56.1(4) of the federal Act to the individual's spouse or common-law partner or former spouse or common-law partner in respect of the person and the individual
- (a) lives separate and apart from the spouse or common-law partner or former spouse or common-law partner throughout the year because of the breakdown of their marriage or common-law partnership, or
  - (b) claims a deduction for the year because of section 60 of the federal Act in respect of a support amount paid to the spouse or common-law partner or former spouse or common-law partner.
- (4)** Where, if this section were read without reference to this subsection, solely because of the application of subsection (3), no individual is entitled to a deduction under clause (b) of the description of B in subsection (1) for a taxation year in respect of a child, subsection (3) shall not apply in respect of that child for that taxation year.
- (5)** For the purposes of clauses (e) and (f) of the description of B in subsection (1) and subsection (2)(f), the dependant of an individual for a taxation year means a person who at any time in the year is dependent on the individual for support and is
- (a) the child or grandchild of the individual or of the individual's spouse or common-law partner, or
  - (b) the parent, grandparent, brother, sister, uncle, aunt, niece or nephew, if resident in Canada at any time in the year, of the individual or of the individual's spouse or common-law partner.

RSA 2000 cA-30 s8;2001 c13 s3;2002 cA-4.5 s17;2002 c6 s4;  
2006 c11 s4;2008 c8 s2;2018 c13 s2;2019 c2 s2;2019 c20 s9(5)

**Age credit**

**9** For the purpose of computing the tax payable under this Act for a taxation year by an individual who, before the end of the year, has attained the age of 65 years, there may be deducted the amount determined by the formula

$$A \times (\$5397 - B)$$

where

A is the specified percentage for the year;

B is 15% of the amount, if any, by which the individual's income for the year would exceed \$40 179 if, in computing that income, no amount were included in respect of a gain from a disposition of property to which section 79 of the federal Act applies and no amount were deductible under paragraph 20(1)(ww) of the federal Act.

RSA 2000 cA-30 s9;2001 c13 s3;2019 c2 s3;2019 c20 s9(6)

**Pension credit**

**10(1)** For the purpose of computing the tax payable under this Act for a taxation year by an individual, there may be deducted the amount determined by the formula

$$A \times B$$

where

A is the specified percentage for the year;

B is the lesser of

(a) \$1491, and

(b) the total of

(i) the eligible pension income of the individual for the taxation year,

(ii) the total of all amounts received by the individual in the year on account of a retirement income security benefit under Part 2 of the *Veterans Well-being Act* (Canada), and

(iii) the total of all amounts received by the individual in the year on account of an income replacement benefit payable to the individual under Part 2 of the *Veterans Well-being Act* (Canada) if the amount is determined under subsection 19.1(1), paragraph 23(1)(b) or

subsection 26.1(1) of that Act, as modified, where applicable, under Part 5 of that Act.

(2) Subsections 118(7) and (8) of the federal Act apply for the purposes of subsection (1).

RSA 2000 cA-30 s10;2019 c2 s6;2019 c20 s9(7)

#### **Charitable and other gifts**

**11(1)** For the purpose of computing the tax payable under this Act for a taxation year by an individual, there may be deducted such amount as the individual claims not exceeding the amount determined by the formula

$$A \times B + [12.75\% \times (D - E) + 21\% \times (C - B - (D - E))]$$

where

A is the specified percentage for the year;

B is the lesser of \$200 and amount C;

C is the amount of the individual's total gifts for the year used to claim a deduction by the individual for the year for the purposes of section 118.1 of the federal Act;

D is the part, if any, of amount C that was made before January 1, 2007;

E is the lesser of B and D.

(2) Section 118.1 of the federal Act applies for the purposes of this Act, except

- (a) the definition of "first-time donor" included in subsection 118.1(1) for the period March 21, 2013 to December 31, 2017 does not apply,
- (b) subsections 118.1(3.1) and (3.2) included for the period March 21, 2013 to December 31, 2017 do not apply, and
- (c) subsection (1) of this section applies instead of subsection 118.1(3) of the federal Act.

RSA 2000 cA-30 s11;2003 c13 s5;2007 c26 s2;  
2014 c6 s2

#### **Medical expense credit**

**12(1)** For the purpose of computing the tax payable under this Act for a taxation year by an individual, there may be deducted the amount determined by the formula



$$A \times [(B - C) + D]$$

where

- A is the specified percentage for the year;
- B is the amount determined in the description of B in subsection 118.2(1) of the federal Act;
- C is the lesser of \$2503 and 3% of the individual's income for the taxation year;
- D is the total of all amounts each of which is, in respect of a dependant of the individual (within the meaning assigned by subsection 118(6) of the federal Act, other than a child of the individual who has not attained the age of 18 years before the end of the taxation year), determined by the formula

$$E - F$$

where

- E is the amount determined in the description of E in subsection 118.2(1) of the federal Act;
- F is the lesser of \$2503 and 3% of the dependant's income for the taxation year.

(2) Section 118.2 of the federal Act applies for the purposes of this Act except that subsection (1) of this section applies instead of subsection 118.2(1) of the federal Act.

RSA 2000 cA-30 s12;2001 c13 s3;2002 cA-4.5 s17;  
2006 c11 s5;2007 c26 s3;2013 c11 s3;2019 c20 s9(8)

### **Credit for mental or physical impairment**

**13(1)** This section applies where

- (a) an individual has one or more severe and prolonged impairments in physical or mental functions,
- (b) the effects of the impairment or impairments are such that the individual's ability to perform more than one basic activity of daily living is significantly restricted where the cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living or are such that the individual's ability to perform a basic activity of daily living is markedly restricted or would be markedly restricted but for therapy that

- (i) is essential to sustain a vital function of the individual,
  - (ii) is required to be administered at least 3 times each week for a total duration averaging not less than 14 hours a week, and
  - (iii) cannot reasonably be expected to be of significant benefit to persons who are not so impaired,
- (c) in the case of an impairment in physical or mental functions the effects of which are such that the individual's ability to perform a single basic activity of daily living is markedly restricted or would be so restricted but for therapy referred to in clause (b), a medical practitioner has certified in prescribed form that the impairment is a severe and prolonged impairment in physical or mental functions the effects of which are such that the individual's ability to perform a basic activity of daily living is markedly restricted or would be markedly restricted but for therapy referred to in clause (b), where the medical practitioner is a medical doctor, or in the case of
- (i) a sight impairment, an optometrist,
  - (ii) a speech impairment, a speech-language pathologist,
  - (iii) a hearing impairment, an audiologist,
  - (iv) an impairment with respect to an individual's ability in feeding or dressing himself or herself, an occupational therapist,
  - (v) an impairment with respect to an individual's ability in walking, an occupational therapist, or after February 22, 2005, a physiotherapist, and
  - (vi) an impairment with respect to an individual's ability in mental functions necessary for everyday life, a psychologist,
- (d) in the case of one or more impairments in physical or mental functions the effects of which are such that the individual's ability to perform more than one basic activity of daily living is significantly restricted, a medical practitioner has certified in prescribed form that the impairment or impairments are severe and prolonged impairments in physical or mental functions the effects of which are such that the individual's ability to perform more than one basic activity of daily living is significantly restricted and that the

cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a single basic activity of daily living, where the medical practitioner is, in the case of

- (i) an impairment with respect to the individual's ability in feeding or dressing himself or herself, or in walking, a medical doctor or an occupational therapist, and
  - (ii) in the case of any other impairment, a medical doctor,
- (e) the individual has filed for a taxation year with the Minister the certificate described in clause (c) or (d), and
- (f) no amount in respect of remuneration for an attendant or care in a nursing home, in respect of the individual, is included in calculating a deduction under section 12 (otherwise than because of paragraph 118.2(2)(b.1) of the federal Act) for the year by the individual or by any other person.

**(2)** Where an individual is entitled to deduct an amount under subsection 118.3(1) of the federal Act for the purpose of computing the individual's tax payable for a taxation year under Part I of the federal Act, for the purpose of computing the tax payable under this Act for a taxation year by the individual, or that would be so payable if the individual were liable under section 3 to pay tax for the year, there may be deducted an amount determined by the formula

$$A \times (\$14\,940 + B)$$

where

A is the specified percentage for the year;

B is

- (a) where the individual has not attained the age of 18 years before the end of the year, the amount, if any, by which
  - (i) \$11 212  
exceeds
  - (ii) the amount, if any, by which
- (A) the total of all amounts each of which is an amount paid in the year for the care or

supervision of the individual and included in computing a deduction under section 63 or 64 of the federal Act or section 12 of this Act for a taxation year

exceeds

(B) \$3057, and

(b) in any other case, \$0.

**(3)** Section 118.3 of the federal Act applies for the purposes of this Act except that subsections (1) and (2) of this section apply instead of subsection 118.3(1) of the federal Act.

RSA 2000 cA-30 s13;2001 c13 s3;2002 c6 ss2,5;  
2005 c6 s2;2007 c26 s4;2008 c8 s3;2019 c20 s9(9)

#### **Child adoption credit**

**13.1(1)** In this section,

- (a) “adoption period”, in respect of an eligible child of an individual, means the period that
  - (i) begins at the earlier of the time that an application is made for registration with a provincial ministry responsible for adoption (or with an adoption agency licensed by a provincial government) and the time, if any, that an application related to the adoption is made to a Canadian court, and
  - (ii) ends at the later of the time an adoption order is issued by, or recognized by, a government in Canada in respect of that child, and the time that the child first begins to reside permanently with the individual;
- (b) “eligible adoption expense”, in respect of an eligible child of an individual, means an amount paid for expenses incurred during the adoption period in respect of the adoption of that child, including
  - (i) fees paid to an adoption agency licensed by a provincial government,
  - (ii) court costs and legal and administrative expenses related to an adoption order in respect of that child,
  - (iii) reasonable and necessary travel and living expenses of that child and the adoptive parents,
  - (iv) document translation fees,

- (v) mandatory fees paid to a foreign institution,
  - (vi) mandatory expenses paid in respect of the immigration of that child, and
  - (vii) any other reasonable expenses related to the adoption required by a provincial government or an adoption agency licensed by a provincial government;
- (c) “eligible child” of an individual means a child who has not attained the age of 18 years at the time that an adoption order is issued or recognized by a government in Canada in respect of the adoption of that child by that individual.

(2) For the purpose of computing the tax payable under this Act by an individual for the taxation year that includes the end of the adoption period in respect of an eligible child of the individual, there may be deducted the amount determined by the formula

$A \times B$

where

A is the specified percentage for the year, and

B is the lesser of

- (a) \$13 247, and
- (b) the amount determined by the formula

$C - D$

where

C is the total of all eligible adoption expenses in respect of the eligible child, and

D is the total of all amounts each of which is the amount of a reimbursement or any other form of assistance (other than an amount that is included in computing the individual’s income and that is not deductible in computing the individual’s taxable income) that any individual is or was entitled to receive in respect of an amount included in computing the value of C.

(3) Where more than one individual is entitled to a deduction under this section for a taxation year in respect of the adoption of an eligible child, the total of all amounts so deductible shall not

exceed the maximum amount that would be so deductible for the year by any one of those individuals for that child if that individual were the only individual entitled to deduct an amount for the year under this section, and if the individuals cannot agree as to what portion of the amount each can so deduct, the Minister may fix the portions.

2007 c26 s5;2014 c6 s2;2015 c16 s2;2019 c20 s9(10)

#### **Nature of impairment**

**14** Section 118.4 of the federal Act applies for the purposes of this Act.

2000 cA-35.03 s14

**15** Repealed 2019 c20 s9(11).

**16** Repealed 2019 c20 s9(12).

#### **Unused tuition and education credits**

**17(1)** In this section, an individual's unused tuition and education credits at the end of a taxation year are the amount determined by the formula

A - B

where

A is the amount determined under this subsection in respect of the individual at the end of the preceding taxation year;

B is the amount that the individual may deduct under subsection (1.1) for the year.

**(1.1)** For the purpose of computing an individual's tax payable under this Act for a taxation year, there may be deducted the lesser of

- (a) the amount determined under subsection (1) in respect of the individual at the end of the preceding taxation year, and
- (b) the amount that would be the individual's tax payable under this Act for the year if no amount were deductible under this Division other than an amount deductible under this section and any of sections 8 to 10, 13, 13.1 and 19.

**(2)** Notwithstanding subsection (1), if an individual was not resident in Alberta on the last day of the preceding taxation year, the amount of the individual's unused tuition and education credits at the end of that year is deemed to equal \$0.

**(3)** For the purposes of this section, an individual's unused tuition and education credits at the end of the 2000 taxation year are deemed to equal the amount that would be the individual's unused tuition and education credits at the end of that year under subsections 118.61(1) and (2) of the federal Act if the percentage applied under section 118.5 of that Act in computing the individual's tuition and education credits had, at all material times, been the specified percentage instead of the appropriate percentage as defined in that Act.

RSA 2000 cA-30 s17;2001 c13 s3;2002 c6 s6;2017 c15 s2;  
2019 c20 s9(13)

#### **Interest on student loan credit**

**18** Section 118.62 of the federal Act applies for the purposes of this Act, except that references to "the appropriate percentage for the year" are to be read as "the specified percentage for the year".

2000 cA-35.03 s18

#### **EI and CPP contributions credit**

**19** Section 118.7 of the federal Act applies for the purposes of this Act, except that the reference to "the appropriate percentage for the year" is to be read as "the specified percentage for the year".

2000 cA-35.03 s19

**20** Repealed 2019 c20 s9(14).

#### **Deduction for taxable dividends**

**21** Section 121 of the federal Act applies for the purposes of this Act except that

- (a) for the 2019 and 2020 taxation years
  - (i) the reference in paragraph (a) to "9/13" is to be read as "149/890", and
  - (ii) the reference in paragraph (b) to "6/11" is to be read as "69/190",
- (b) for the 2021 taxation year
  - (i) the reference in paragraph (a) to "9/13" is to be read as "149/890", and
  - (ii) the reference in paragraph (b) to "6/11" is to be read as "114/347",

and

- (c) for the 2022 and subsequent taxation years

- (i) the reference in paragraph (a) to “9/13” is to be read as “149/890”, and
- (ii) the reference in paragraph (b) to “6/11” is to be read as “227/770”.

RSA 2000 cA-30 s21;2007 c26 s7;2009 c16 s2;2014 c6 s2;  
2015 c21 Sched. 2 s2;2016 c17 s3;2017 c15 s2;2019 c2 s7;  
2019 c20 s9(15)

#### **Overseas employment tax credit**

**22** For the purposes of computing tax payable under this Act for a taxation year by an individual, there may be deducted an amount equal to 35% of the amount that the individual may deduct under section 122.3 of the federal Act for that taxation year.

RSA 2000 cA-30 s22;2001 c13 s3

#### **Foreign tax credit**

**23(1)** An individual who was resident 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 non-business-income tax was paid by the individual to the government of a country other than Canada may deduct for that taxation year the amount, if any, equal to the lesser of

- (a) the amount, if any, by which any non-business-income tax paid by the individual for the year to the government of the country other than Canada exceeds,
  - (i) where section 127.5 of the federal Act does not apply to the individual for the taxation year, all amounts that could have been claimed by the individual as deductions from tax under that Act for the year under subsection 126(1) of that Act in respect of any non-business-income tax paid to the government of that country, or
  - (ii) where section 127.5 of the federal Act applies to the individual for the year, the amount of the individual’s special foreign tax credit for the year determined under section 127.54 of that Act in respect of any non-business-income tax paid to the government of that country,

and

- (b) that proportion of the tax otherwise payable under this Act for that taxation year that
  - (i) the individual’s amount, if any, calculated under subparagraph 126(1)(b)(i) of the federal Act from sources in that country for the year,



is of

(ii) the amount, if any, by which

- (A) if the individual was resident in Canada throughout the year, the individual's income earned in the year in Alberta computed without reference to paragraph 20(1)(ww) of the federal Act, or
- (B) if the individual was non-resident at any time in the year, the individual's income earned in the year in Alberta that is included in the amount determined under paragraph 114(a) of the federal Act in respect of the individual for the year,

exceeds

- (C) the total of all amounts each of which is an amount deducted under section 110.6 or paragraph 111(1)(b) of the federal Act, or deductible under any of paragraphs 110(1)(d) to (d.3), (f), (g) and (j) of the federal Act for the year, in computing the individual's taxable income for the year.

**(2)** For the purposes of subsection (1), the non-business-income tax paid by an individual to the government of a country other than Canada in respect of the individual's income for a year is the non-business-income tax that the individual paid to the government of that country as defined under subsection 126(7) of the federal Act for the purposes of that Act.

**(3)** In the case of an individual referred to in section 6.1(5), the words "last day of a taxation year" in subsection (1) shall be read as "last day in the taxation year on which the individual resided in Canada".

**(4)** 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 an individual's income for a taxation year is in whole or in part from sources in more than one country other than Canada, subsection (1) shall be read as providing for separate deductions in respect of each of the countries other than Canada, and
- (c) if any income from a source in a particular country would be tax-exempt income as defined in subsection 126(7) of the

federal Act 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.

RSA 2000 cA-30 s23;2002 c6 s8;2004 c1 s3;  
2005 c6 s5;2015 c16 s2;2019 c20 s9(16)

### Political contributions

**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*;
- (b.1) “registered leadership contestant” means a person who is a registered leadership contestant under the *Election Finances and Contributions Disclosure Act*;
- (b.2) “registered nomination contestant” means a person who is a registered nomination contestant 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 s2.

**(2.1)** In respect of the aggregate amount of contributions under the *Election Finances and Contributions Disclosure Act* contributed on or after January 1, 2004 by an individual, other than a trust, during a taxation year to a registered party, registered constituency association, registered candidate, registered leadership contestant or registered nomination contestant, that individual may deduct the lesser of the amount of tax payable and an amount equal to

- (a) 75% of the amount contributed if the aggregate amount of contributions by the individual does not exceed \$200,
- (b) \$150 plus 50% of the amount contributed in excess of \$200 if the aggregate amount of contributions by the individual exceeds \$200 but does not exceed \$1100, or
- (c) if the aggregate amount of contributions by the individual exceeds \$1100, the lesser of

- (i) \$1000, and
- (ii) \$600 plus 33 1/3% of the amount contributed in excess of \$1100.

**(3)** Payment of each amount that is included in the aggregate amount of contributions in respect of which a deduction is claimed under subsection (2.1) must be proved by filing with the Provincial Minister receipts signed on behalf of the registered party, registered constituency association, registered candidate, registered leadership contestant or registered nomination contestant, as the case may be.

**(4)** An individual is entitled to a deduction under subsection (2.1) in respect of the taxation year only if the individual files an application for the deduction in the prescribed form

- (a) with the return for that taxation year, or
- (b) within 90 days from the date of mailing of the notice of assessment or reassessment.

**(5)** Repealed 2015 c21 Sched. 2 s2.

RSA 2000 cA-30 s24;2002 c6 s2;2004 c23 s99;  
2015 c21 Sched. 2 s2;2017 c15 s2;2018 c13 s2

**25** Repealed 2019 c20 s9(17).

#### **Refund to mutual fund trust**

**26(1)** In this section,

- (a) “Alberta rate” means, in respect of a taxation year, the rate, expressed as a percentage, calculated by multiplying the rate for the year as provided by the description of A in section 6.1(1)(b) by 1/2;
- (b) “capital gains redemptions” of a mutual fund trust for a taxation year means that proportion of
  - (i) the aggregate of
    - (A) the product obtained when 100 divided by the Alberta rate is multiplied by the trust’s refundable capital gains tax on hand at the end of the year, and
    - (B) the amount, if any, by which the aggregate of the fair market value at the end of the year of all of the issued units of the trust and all amounts each of which is the amount of any debt owing by the trust, or of any other obligation of the trust to pay an amount, that

was outstanding at that time exceeds the aggregate of the cost amounts to it at that time of all of its properties and the amount of any money of the trust on hand at that time,

that

- (ii) the aggregate of amounts each of which is the proportion of an amount paid by the trust in the year on the redemption of a unit in the trust that is included in the proceeds of disposition in respect of that redemption

is of

- (iii) the aggregate of the fair market value at the end of the year of all of the issued units of the trust and the amount determined under subclause (ii) in respect of the trust for the year

to the extent that that proportion exceeds twice the total of all the amounts each of which is an amount designated under subsection 104(21) of the federal Act for the year by the trust in respect of a unit of the trust redeemed by the trust at any time in the year and after December 31, 2000;

- (c) “mutual fund trust” has the same meaning as in section 132 of the federal Act;

- (d) “refundable capital gains tax on hand” of a mutual fund trust at the end of a taxation year means the amount, if any, by which

- (i) the aggregate of amounts each of which is an amount in respect of that or any previous taxation year throughout which it was a mutual fund trust, equal to the least of

- (A) the product obtained by multiplying its taxable income for the year by the rate for the year as provided by the description of A in section 6.1(1)(b),

- (B) the product obtained by multiplying its taxed capital gains for the year by the rate for the year as provided by the description of A in section 6.1(1)(b), and

- (C) the tax payable under this Part by it for the year,

exceeds

- (ii) the aggregate of amounts each of which is an amount in respect of any previous taxation year throughout which it

was a mutual fund trust, equal to its tax refund determined under subsection (3) for the year;

- (e) “taxed capital gains” has the same meaning as in section 132 of the federal Act.

(2) When an amount is to be refunded to a mutual fund trust in respect of a taxation year pursuant to section 132 of the federal Act, the Provincial Minister must, subject to subsection (4), at the time and in the manner provided in section 132 of the federal Act, refund to the mutual fund trust an amount, referred to in this section as its “capital gains refund” for the year, equal to the amount determined under subsection (3).

(3) The amount to be refunded to a mutual fund trust for a taxation year is equal to the lesser of

- (a) the product obtained by multiplying the trust’s capital gains redemptions for the year by the Alberta rate, and
- (b) the trust’s refundable capital gains tax on hand at the end of the year.

(4) For the purpose of computing the capital gains refund under subsection (2) for a mutual fund trust in respect of a taxation year, when the mutual fund trust had business income outside Alberta in the taxation year, the refund is that proportion of the capital gains refund for the year, otherwise determined under subsection (2), that the trust’s business income in Alberta in the taxation year is of its income for the year.

RSA 2000 cA-30 s26;2002 c6 ss2,9;2015 c16 s2;  
2019 c20 s9(18)

#### Minimum tax carry over

**27(1)** Subject to subsections (2), (3), (4), (5) and (6), for the purpose of computing the tax payable under this Act for a taxation year by an individual, there may be deducted an amount equal to 35% of the amount that the individual may deduct under section 120.2 of the federal Act for that taxation year.

(2) The amount calculated for the purposes of subsection (1) in respect of an individual referred to in section 6.1(3) is the amount determined by multiplying the amount calculated under subsection (1) by the formula

$$C - \frac{D}{C}$$

where C and D are the individual’s amounts for the year as described in section 6.1(3).

**(3)** The amount calculated for the purposes of subsection (1) in respect of an individual referred to in section 6.1(4) is the amount determined by multiplying the amount calculated under subsection (1) by the formula

$$\frac{C}{D}$$

where C and D are the individual's amounts for the year as described in section 6.1(4).

**(4)** The amount calculated for the purposes of subsection (1) in respect of an individual referred to in section 6.1(5) is the amount determined by multiplying the amount calculated under subsection (1) by the formula

$$\frac{C - D}{C}$$

where C and D are the individual's amounts for the year as described in section 6.1(5).

**(5)** The amount calculated for the purposes of subsection (1) in respect of an individual referred to in section 6.1(6) is the amount determined by multiplying the amount calculated under subsection (1) by the formula

$$\frac{C}{D}$$

where C and D are the individual's amounts for the year as described in section 6.1(6).

**(6)** The amount calculated for the purposes of subsection (1) in respect of an individual referred to in section 6.1(7) is the amount determined by multiplying the amount calculated under subsection (1) by the formula

$$\frac{C}{D}$$

where C and D are the individual's amounts for the year as described in section 6.1(7).

RSA 2000 cA-30 s27;2001 c13 s3;2002 c6 s10;  
2015 c16 s2;2019 c20 s9(19)

## Division 4 Child and Family Benefit

### Interpretation

**28** In this Division,

- (a) “adjusted earned income” of an individual for a taxation year means the total of all amounts each of which is the earned income for the year of the individual or of the person who was the individual’s cohabiting spouse or common-law partner at the end of the year;
- (b) “adjusted income”, “base taxation year”, “cohabiting spouse or common-law partner”, “eligible individual”, “qualified dependant”, “return of income” and “shared-custody parent” have the same meanings as in section 122.6 of the federal Act;
- (b.1) “cohabiting spouse or common-law partner” has the meaning given to it in section 122.6 of the federal Act;
- (c) “earned income” of an individual for a taxation year has the same meaning as in subsection 63(3) of the federal Act;
- (d) “overpayment” means an overpayment that an individual is deemed to have made under section 30.2.

RSA 2000 cA-30 s28;2002 cA-4.5 s17;2013 c11 s3;  
2019 c20 s9(21)

**29 to 30.1** Repealed 2019 c20 s9(22).

### Child and family benefit

**30.2(1)** An eligible individual is deemed to have made an overpayment in a month on account of the eligible individual’s liability under this Act for the base taxation year in relation to that month if

- (a) the eligible individual has filed a return of income for the base taxation year, and
- (b) the eligible individual was resident in Alberta at the beginning of the month and on the last day of the immediately preceding month.

**(2)** Subject to subsection (4), the amount that an eligible individual is deemed to have overpaid in a month is determined by the formula

A + B

where

A is the positive amount, if any, determined by the formula

$$\frac{(C - D)}{12}$$

where

C is the lesser of

(a) if the person was an eligible individual at the beginning of the month in respect of one or more qualified dependants, the total of

(i) \$681 for the first qualified dependant,

(ii) \$620 for the 2nd qualified dependant,

(iii) \$371 for the 3rd qualified dependant, and

(iv) \$123 for the 4th qualified dependant,

and

(b) the amount, if any, by which the eligible individual's adjusted earned income for the base taxation year in relation to the month exceeds \$2760, multiplied by 15%;

D is the amount, if any, by which the eligible individual's adjusted income for the base taxation year in relation to the month exceeds \$41 000, multiplied by

(a) 3.40% where the eligible individual has one qualified dependant,

(b) 6.49% where the eligible individual has 2 qualified dependants,

(c) 8.34% where the eligible individual has 3 qualified dependants, and

(d) 8.95% where the eligible individual has 4 or more qualified dependants;

B is the positive amount, if any, determined by the formula



$$\frac{(E - F)}{12}$$

where

E is, if the person was an eligible individual at the beginning of the month in respect of one or more qualified dependants, the total of

- (a) \$1330 for the first qualified dependant,
- (b) \$665 for the 2nd qualified dependant,
- (c) \$665 for the 3rd qualified dependant, and
- (d) \$665 for the 4th qualified dependant;

F is the amount, if any, by which the eligible individual's adjusted income for the base taxation year in relation to the month exceeds \$24 467, multiplied by

- (a) 8.05% where the eligible individual has one qualified dependant,
- (b) 12.07% where the eligible individual has 2 qualified dependants,
- (c) 16.09% where the eligible individual has 3 qualified dependants, and
- (d) 20.11% where the eligible individual has 4 or more qualified dependants.

**(3)** Notwithstanding subsection (2), if an eligible individual is a shared-custody parent in respect of one or more qualified dependants at the beginning of a month, the overpayment deemed by subsection (2) to have arisen during that month is equal to the amount determined by the formula

$$\frac{(A + B)}{2}$$

where

A is the amount determined under subsection (2) calculated without reference to this subsection;

B is the amount determined under subsection (2) calculated without reference to this subsection and subparagraph (b)(ii)

of the definition of “eligible individual” in section 122.6 of the federal Act.

(4) If the total amount that an eligible individual is deemed to have overpaid during a 12-month period from July of one year to June of the next year would be, except for this subsection, greater than \$0 and less than \$10, the total amount that the eligible individual is deemed to have overpaid during that 12-month period is \$10.

2019 c20 s9(23)

#### **Repayment resulting from death**

**30.3(1)** Subject to subsection (2), no obligation to repay all or a portion of a refund of overpayment made under section 30.2 arises as a result of the death of a person who, but for the person’s death, would be an eligible individual or qualified dependant for the purposes of that overpayment.

(2) Subsection (1) does not apply with respect to a refund of overpayment or any portion thereof if the refund or portion of the refund arose as a result of the provision of false or misleading information.

2019 c20 s9(23)

#### **Transitional**

**30.4** In respect of any month that relates to a base taxation year before 2019, sections 30 and 30.1, as they read at the beginning of that month, continue to apply notwithstanding their repeal, irrespective of whether a return for the base taxation year is filed prior to July 1, 2020.

2019 c20 s9(23)

#### **Application of federal Act**

**31** Subsections 122.61(3) and (3.1) and 122.62(1), (2), (4), (5), (6) and (7) of the federal Act apply in respect of an overpayment.

2000 cA-35.03 s31

#### **Cohabiting spouse or common-law partner**

**32(1)** Despite section 30.2, if an eligible individual has a cohabiting spouse or common-law partner at the end of a base taxation year, the eligible individual is not deemed to have made an overpayment in respect of the base taxation year unless the cohabiting spouse or common-law partner has filed a return of income for the base taxation year.

(2) The Provincial Minister may waive the requirement for an eligible individual's cohabiting spouse or common-law partner to file a return of income under subsection (1) if the eligible individual has made an election under subsection 122.62(5) or (6) of the federal Act.

RSA 2000 cA-30 s32;2002 cA-4.5 s17;2002 c6 s2;2013 c11 s3;  
2019 c20 s9(24)

#### Payment of refund

**33(1)** The Provincial Minister may, based on considerations of administrative efficiency, refund an overpayment within or after the month in which the overpayment is deemed to arise or before the month in which the overpayment is expected to be deemed to arise.

(2) A refund of an overpayment and costs relating to the refund are payable from the taxes, interest, penalties and other amounts collected under this Act.

RSA 2000 cA-30 s33;2002 c6 s2;2019 c20 s9(25)

#### Protection for refund

**34(1)** A refund of an overpayment

- (a) subject to clause (b), may not be charged or given as security,
  - (b) may not be assigned except under a prescribed enactment,
  - (c) is exempt from
    - (i) writ proceedings as defined in the *Civil Enforcement Act*, and
    - (ii) distress proceedings authorized under the *Civil Enforcement Act* or any other law that is in force in Alberta,
- and
- (d) may not be retained by way of deduction or set-off except in respect of amounts that have been paid under section 30.2 or 30.4.

(2) Anything done in contravention of subsection (1) is void.

2000 cA-35.03 s34;2015 c21 Sched. 2 s2;2019 c20 s9(26)

#### Regulations

**35** The Lieutenant Governor in Council may make regulations

- (a) specifying, with or without modifications, additional provisions of the federal Act that apply in respect of an overpayment;
  - (b) establishing rules to determine if an individual was resident in Alberta for the purposes of section 30.2(1)(b);
  - (c) prescribing enactments for the purposes of section 34(1)(b).
- 2000 cA-35.03 s35;2019 c20 s9(27)

### **Division 4.01 Investor Tax Credits**

#### **Investor tax credits**

**35.01(1)** In this section,

- (a) “individual” means an individual described in section 3(1), but does not include an estate or a trust;
- (b) “investor tax credit” means the total of all tax credit amounts shown on all investor tax credit certificates issued to an individual for share purchases
  - (i) made during the calendar year, or
  - (ii) subject to an election made under subsection (11);
- (c) “investor tax credit certificate” means a tax credit certificate issued under section 21 or 39 of the *Investing in a Diversified Alberta Economy Act* that is not revoked or cancelled.

**(2)** Subject to this section, if, in respect of a taxation year, an individual has filed an investor tax credit certificate, there must be deducted from the tax otherwise payable by that individual under this Act in that taxation year the lesser of

- (a) the investor tax credit, and
- (b) \$60 000.

**(3)** The Provincial Minister may pay to an individual the amount, if any, by which the amount of the deduction under subsection (2) exceeds the amount of tax otherwise payable under this Act in that taxation year up to a maximum of \$60 000.

**(4)** If, in any of the subsequent 4 taxation years, an individual has not used all of the investor tax credit available under subsection (2) or (3), there must be deducted from the tax otherwise payable under this Act in that taxation year an amount equal to the least of

- (a) the unused part of the investor tax credit,
- (b) the amount of tax that would otherwise be payable but for the unused part, and
- (c) \$60 000.

**(5)** If, in any year referred to in subsection (4), an individual has, after making the deduction under that subsection, not deducted all of the unused investor tax credit referred to in that subsection, the Provincial Minister may pay to that individual an amount equal to the lesser of

- (a) the amount that was not so used before any deduction under subsection (4), and
- (b) \$60 000,

minus the amount of tax otherwise payable under this Act in that taxation year.

**(6)** Where an individual who has been issued an investor tax credit certificate dies and at the time of his or her death has not deducted or been paid the full amount of the investor tax credit to which he or she is entitled under subsection (2), (3), (4) or (5), the Provincial Minister must pay to the estate of that deceased individual an amount equal to the lesser of

- (a) the unused part of the investor tax credit, and
- (b) an amount determined by the formula

$$(5 - A) \times \$60\,000$$

where

A is the number of years that have passed since the taxation year in which the individual's most recently issued investor tax credit certificate was filed with his or her annual return, not exceeding 5 years.

**(7)** The aggregate of all amounts that may be deducted by the individual or paid to the individual under subsection (2), (3), (4) or (5) in any year must not exceed \$60 000.

**(8)** Deductions and payments under this section in respect of investor tax credits are deemed to be deducted or paid, as the case may be, in the order that the certificates relating to the tax credits were issued.

(9) An individual who is entitled to a deduction or payment under this section must file a copy of the investor tax credit certificate with his or her annual return for any taxation year in respect of which a deduction or payment under this section applies.

(10) Investor tax credit certificates must be filed with the Provincial Minister in the taxation year in which they were issued.

(11) Notwithstanding subsection (10), an individual may make, and file with the Provincial Minister, an election in the prescribed form to treat a share purchase made within the first 60 days after the end of a calendar year as having been made in the immediately preceding calendar year and not in the calendar year of purchase, in which case the purchase is deemed to have been made in that immediately preceding calendar year.

(12) An individual is entitled to a deduction or payment in respect of an investor tax credit under this section only if the individual files an application for the investor tax credit in the prescribed form within 3 years after the end of the taxation year in respect of which the investor tax credit certificate is issued.

(13) An investor tax credit certificate that is revoked or cancelled under the *Investing in a Diversified Alberta Economy Act* is deemed never to have been issued.

2016 cI-10.5 s82

**Division 4.1** Repealed 2013 c11 s3.

## **Division 4.2 Alberta Climate Leadership Adjustment Rebate**

**35.2 and 35.3** Repealed 2019 c20 s9(28).

### **Transitional**

**35.4** In respect of any month specified for the 2015, 2016 or 2017 taxation years, sections 35.2 and 35.3, as they read immediately before their repeal, continue to apply notwithstanding their repeal, irrespective of whether a return for the taxation year is filed prior to January 1, 2020.

2019 c20 s9(29)

## Division 5 Restrictions on Credits

### Trusts

**36** No deductions may be made under sections 8 to 10 in computing the tax payable under this Act for a taxation year by a trust.

2000 cA-35.03 s36

### Restriction on credit amounts for part-year residents

**36.1(1)** Where an individual is resident in Canada throughout part of a calendar year and throughout another part of the calendar year is non-resident, this section applies in computing the amounts that may be deducted under sections 8 to 19 for the purposes of this Act.

**(2)** Where an individual is resident in Canada throughout part of a calendar year and throughout another part of the calendar year is non-resident, for the purpose of computing the individual's tax payable under this Act for the year,

- (a) the amounts deductible for the year under sections 8 to 19 in respect of the part of the year that is not included in the period or periods referred to in clause (b) are computed as though such part were the whole taxation year, and
- (b) the individual is allowed only
  - (i) such of the deductions under sections 10, 11, 12, 13.1, 18 and 19 as can reasonably be considered wholly applicable, and
  - (ii) such part of the deductions permitted under sections 8, 9 and 13 as can reasonably be considered applicable

to the period or periods in the year throughout which the individual is resident in Canada, computed as though that period or those periods were the whole taxation year.

**(3)** The amount deductible for the year by the individual under each provision referred to in subsection (2) cannot exceed the amount that would have been deductible under that provision had the individual been resident in Canada throughout the year.

2005 c6 s7;2007 c26 s8;2019 c20 s9(30)

### Credits in year of bankruptcy

**37** Despite sections 8 to 19, for the purpose of computing an individual's tax payable under this Act for a taxation year that ends

in a calendar year in which the individual becomes bankrupt, the individual is allowed only

- (a) such of the deductions as the individual is entitled to under sections 10, 11, 12, 13.1, 18 and 19 as can reasonably be considered wholly applicable to the taxation year, and
- (b) such part of the deductions as the individual is entitled to under sections 8, 9 and 13 as can reasonably be considered applicable to the taxation year,

except that the total of the amounts so deductible for all taxation years of the individual in the calendar year under any of those provisions cannot exceed the amount that would have been deductible under that provision in respect of the calendar year if the individual had not become bankrupt.

RSA 2000 cA-30 s37;2007 c26 s9;2019 c20 s9(31)

#### **Business income outside Alberta**

**38** Despite sections 8, 9, 11, 12, 13, 17, 18 and 19, for the purposes of computing tax payable under this Act for a taxation year by an individual referred to in section 6.1(3), the amount that may be deducted under those provisions must not exceed the portion of such amount determined by the formula

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

where

A is the total of those credits under sections 8, 9, 11, 12, 13, 17, 18 and 19 that the individual is entitled to claim;

C and D are the individual's amounts for the year as described in section 6.1(3).

RSA 2000 cA-30 s38;2001 c13 s3;2002 c6 s18;  
2003 c13 s7;2015 c16 s2;2019 c20 s9(32);2020 c23 s1

#### **Business income in Alberta**

**39** Despite sections 8 to 13.1 and 17 to 23, for the purposes of computing tax payable under this Act for a taxation year by an individual referred to in section 6.1(4), the amount that may be deducted under those sections must not exceed the portion of such amount determined by the formula

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

where



A is the total of those credits under sections 8, 9, 11, 12, 13, 17, 18 and 19 that the individual is entitled to claim;

C and D are the individual's amounts for the year as described in section 6.1(4).

RSA 2000 cA-30 s39;2001 c13 s3;2003 c13 s8;  
2007 c26 s10;2015 c16 s2;2019 c20 s9(33)

#### Proration of credits for emigrants from Canada

**40(1)** Despite sections 8, 9, 11, 12, 13, 17, 18 and 19, for the purposes of computing tax payable under this Act for a taxation year by an individual referred to in section 6.1(5), the amount that may be deducted under those provisions must not exceed the portion of such amount determined by the formula

$$A \times \frac{(C - D)}{C}$$

where

A is the total of those credits under sections 8, 9, 11, 12, 13, 17, 18 and 19 that the individual is entitled to claim, and

C and D are the individual's amounts for the year as described in section 6.1(5).

**(2)** Despite sections 8 to 13.1 and 17 to 23, for the purposes of computing tax payable under this Act for a taxation year by an individual referred to in section 6.1(7), the amount that may be deducted under those sections must not exceed the portion of such amount determined by the formula

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

where

A is the total of those credits under sections 8, 9, 11, 12, 13, 17, 18 and 19 that the individual is entitled to claim, and

C and D are the individual's amounts for the year as described in section 6.1(7).

RSA 2000 cA-30 s40;2002 c6 s11;2005 c6 s8;  
2007 c26 s11;2015 c16 s2;2019 c20 s9(34)

**Tax payable by non-resident**

**41(1)** Sections 8, 9, 10 and 12 of this Act, section 13 of this Act with respect to the application of subsections 118.3(2) and (3) of the federal Act and section 13.1 of this Act do not apply for the purpose of computing the tax payable under this Act for a taxation year by an individual who at no time in the year is resident in Canada unless all or substantially all of the individual's income for the year is included in computing the individual's taxable income earned in Canada for the year.

**(2)** For an individual referred to in section 6.1(6), the amount that may be deducted under subsection (1) for the year must not exceed the portion of such amount determined by the formula

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

where

A is the total of those credits under sections 8, 9, 11, 12, 13, 18 and 19 that the individual is entitled to claim, and

C and D are the individual's amounts for the year as described in section 6.1(6).

RSA 2000 cA-30 s41;2002 c6 s12;2007 c26 s12;  
2009 c16 s3;2015 c16 s2;2019 c20 s9(35)

**Division 6  
General****Ordering of credits**

**42** In computing an individual's tax payable under this Act, the following provisions must be applied in the following order:

sections 8, 9, 19, 10, 13.1, 13, 17, 12, 11, 18, 21, 22, 27, 23 and 24.

RSA 2000 cA-30 s42;2002 c6 s13;2003 c13 s9;  
2007 c26 s13;2019 c20 s9(36)

**Credits in separate returns**

**43** Where a separate return of income with respect to an individual is filed under subsection 70(2), 104(23) or 150(4) of the federal Act for a particular period and another return of income under this Act with respect to the individual is filed for a period ending in the calendar year in which the particular period ends, for the purpose of computing the tax payable under this Act by the individual in those returns, the total of all deductions claimed in all those returns under any of sections 10 to 19 of this Act and section

118.9 of the federal Act cannot exceed the total that could be deducted under those provisions for the year with respect to the individual if no separate returns were filed under subsections 70(2), 104(23) and 150(4) of the federal Act.

2000 cA-35.03 s43

**44** Repealed 2019 c20 s9(37).

#### **Transitional**

**44.1** For the purpose of calculating any amount that an eligible individual is deemed to have overpaid in a month under section 30.4, section 44, as it read immediately before the end of the day on June 30, 2020, continues to apply notwithstanding its repeal.

2019 c20 s9(38)

#### **Bankrupt individuals**

**45** Subsection 128(2) of the federal Act applies for the purposes of this Act.

2000 cA-35.03 s45

#### **Lump sum payments**

**46(1)** Subject to subsections (2), (3), (4), (5) and (6), there must be added in computing an individual's tax payable pursuant to this Act for a taxation year an amount equal to 35% of the total of any amounts added pursuant to section 120.3 or 120.31 of the federal Act or section 40 of the *Income Tax Application Rules* (Canada) for the purpose of computing the individual's tax payable pursuant to Part I of the federal Act for the taxation year.

**(2)** The amount calculated for the purposes of subsection (1) in respect of an individual referred to in section 6.1(3) is the amount determined by multiplying the amount calculated under subsection (1) by the formula

$$\frac{C - D}{C}$$

where C and D are the individual's amounts for the year as described in section 6.1(3).

**(3)** The amount calculated for the purposes of subsection (1) in respect of an individual referred to in section 6.1(4) is the amount determined by multiplying the amount calculated under subsection (1) by the formula

$$\frac{C}{D}$$

where C and D are the individual's amounts for the year as described in section 6.1(4).

- (4) The amount calculated for the purposes of subsection (1) in respect of an individual referred to in section 6.1(5) is the amount determined by multiplying the amount calculated under subsection (1) by the formula

$$\frac{C - D}{C}$$

where C and D are the individual's amounts for the year as described in section 6.1(5).

- (5) The amount calculated for the purposes of subsection (1) in respect of an individual referred to in section 6.1(6) is the amount determined by multiplying the amount calculated under subsection (1) by the formula

$$\frac{C}{D}$$

where C and D are the individual's amounts for the year as described in section 6.1(6).

- (6) The amount calculated for the purposes of subsection (1) in respect of an individual referred to in section 6.1(7) is the amount determined by multiplying the amount calculated under subsection (1) by the formula

$$\frac{C}{D}$$

where C and D are the individual's amounts for the year as described in section 6.1(7).

RSA 2000 cA-30 s46;2001 c13 s3;2002 c6 s14;  
2015 c16 s2;2019 c20 s9(39)

## Division 7 Other Taxes Payable

### Tax on split income

- 47(1)** There must be added to the tax payable for a specified individual who is resident in Alberta under this Act for a taxation year an amount that is determined by multiplying the individual's split income for that year by the highest percentage specified for the purposes of section 6.1(1)(a).

(2) Section 120.4 of the federal Act applies for the purposes of this Act except that subsection (1) of this section applies instead of the proposed subsection 120.4(2) of the federal Act.

RSA 2000 cA-30 s47;2001 c13 s3;2015 c16 s2;  
2019 c20 s9(40)

#### Minimum tax

**48(1)** Subject to subsections (2), (3), (4), (5) and (6), if an individual is required to pay tax under section 127.5 of the federal Act in respect of a taxation year, the amount of the additional minimum tax that the individual is required to pay under this Act in respect of that taxation year is 35% of the amount that would be determined under subsection 120.2(3) of the federal Act for the taxation year if that subsection were read without reference to paragraph (c).

(2) The amount calculated for the purposes of subsection (1) in respect of an individual referred to in section 6.1(3) is the amount determined by multiplying the amount calculated under subsection (1) by the formula

$$\frac{C - D}{C}$$

where C and D are the individual's amounts for the year as described in section 6.1(3).

(3) The amount calculated for the purposes of subsection (1) in respect of an individual referred to in section 6.1(4) is the amount determined by multiplying the amount calculated under subsection (1) by the formula

$$\frac{C}{D}$$

where C and D are the individual's amounts for the year as described in section 6.1(4).

(4) The amount calculated for the purposes of subsection (1) in respect of an individual referred to in section 6.1(5) is the amount determined by multiplying the amount calculated under subsection (1) by the formula

$$\frac{C - D}{C}$$

where C and D are the individual's amounts for the year as described in section 6.1(5).

(5) The amount calculated for the purposes of subsection (1) in respect of an individual referred to in section 6.1(6) is the amount determined by multiplying the amount calculated under subsection (1) by the formula

$$\frac{C}{D}$$

where C and D are the individual's amounts for the year as described in section or 6.1(6).

(6) The amount calculated for the purposes of subsection (1) in respect of an individual referred to in section 6.1(7) is the amount determined by multiplying the amount calculated under subsection (1) by the formula

$$\frac{C}{D}$$

where C and D are the individual's amounts for the year as described in section 6.1(7).

RSA 2000 cA-30 s48;2001 c13 s3;2002 c6 s15;  
2015 c16 s2;2019 c20 s9(41)

**Part 1.1** Repealed 2013 c11 s3.

## **Part 2 Returns, Assessments and Appeals**

### **Application of Part**

**49(1)** In addition to applying to the 2001 taxation year and subsequent taxation years, this Part applies to matters under the old Act.

(2) In this Part, "this Act" includes the old Act.

2000 cA-35.03 s49

### **Returns**

**50** Section 150 of the federal Act applies for the purposes of this Act.

2000 cA-35.03 s50

### **Estimates, assessment and payment of tax**

**51(1)** Sections 150.1, 151, 152 and 153 of the federal Act apply for the purposes of this Act.

**(1.1)** Where at any time the Provincial Minister ascertains the tax consequences to an individual by reason of section 85.1(7) with respect to a transaction, the Provincial Minister

- (a) shall, in the case of a determination pursuant to section 85.1(7), 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 individual under this Act, and where such a determination is made, the Provincial Minister shall send to the individual, with all due dispatch, a notice of determination stating the amount so determined.

**(2)** Even if the normal reassessment period as defined in subsection 152(3.1) of the federal Act for an individual in respect of a taxation year has elapsed, if the tax payable under Part I of the federal Act by the individual for the year is reassessed, the Provincial Minister must reassess or make additional assessments or assess tax, interest, penalties or other amounts under this Act, as the circumstances require, and determine the amount of the refundable tax credit, if any, to which the individual is entitled for the year.

**(3)** If the Provincial Minister is entitled under this Act to reassess or make an additional assessment or assess tax, interest, penalties or other amounts, the Provincial Minister may also determine the entitlement to and the amount, if any, of refundable tax credits as the circumstances require, and any limitations on that reassessment, additional assessment or assessment apply to the determination.

RSA 2000 cA-30 s51;2002 c6 s2;2007 c26 s15

#### **Computation of amount payable**

**52(1)** Subsections 70(2) and 104(2), paragraph 104(23)(e) and sections 155, 156, 156.1, 158, 159, 160, 160.1, 160.2, 160.3 and 161, except subsection (4), of the federal Act apply for the purposes of this Act.

**(2)** In the application of section 155 of the federal Act, the amount estimated under paragraph 155(1)(a) of the federal Act by the individual is determined as if the tax payable under the federal Act were computed under the definition of “tax otherwise payable under this Part” in subsection 120(4) of the federal Act.

**(3)** In the application of section 156 of the federal Act, the amount estimated under paragraph 156(1)(a) of the federal Act by the individual is determined as if the tax payable under the federal Act were computed under the definition of “tax otherwise payable under this Part” in subsection 120(4) of the federal Act.

**(4)** If because of section 156.1 of the federal Act an individual is not required to pay instalments, the requirements for payment by instalments under this Act are not applicable, and the individual must pay, on or before April 30 in the year following the particular taxation year, the individual’s tax as estimated under this Act for that taxation year.

**(5)** In applying subsection 160.1(1) of the federal Act, “refund” includes a refund that arises because of a provision of this Act

- (a) that allows an individual to deduct an amount from the tax payable under this Act, or
- (b) that deems an amount to have been paid by an individual as or on account of the tax payable under this Act by the individual.

2000 cA-35.03 s52

#### **Penalties**

**53** Sections 162, 163 and 163.1 of the federal Act apply for the purposes of this Act.

2000 cA-35.03 s53

#### **Refunds**

**54(1)** Section 164 of the federal Act applies for the purposes of this Act.

**(2)** If a tax collection agreement is in effect and because of a decision referred to in subsection 164(4.1) of the federal Act a repayment of tax, interest or penalties under the federal Act for a taxation year is made to an individual or any security accepted under the federal Act for the tax, interest or penalties is surrendered to the individual, subsection 164(4.1) of the federal Act applies to any overpayment of tax, interest or penalties under this Act for the year that arises because of the decision.

2000 cA-35.03 s54

#### **Objections to assessments**

**55** Section 165 of the federal Act applies for the purposes of this Act.

2000 cA-35.03 s55



**Extension of time**

**56** Sections 166.1 and 166.2 of the federal Act apply for the purposes of this Act.

2000 cA-35.03 s56

**Right of appeal**

**57(1)** An individual who has served a notice of objection to an assessment under this Act may appeal to the Court to have the assessment vacated or varied after

- (a) the Provincial Minister has confirmed the assessment or reassessed, or
- (b) 90 days has elapsed after the service of the notice of objection and the Provincial Minister has not notified the individual that the Provincial Minister has vacated or confirmed the assessment or reassessed.

**(2)** No appeal under this section may be commenced after the expiration of 90 days from the day notice that the Provincial Minister has confirmed the assessment or reassessed has been mailed to the individual in accordance with section 165 of the federal Act.

**(3)** An appeal from an assessment under this Act lies only in respect of the determination of

- (a) an individual's residence for the purposes of this Act,
- (b) the amount of an individual's business income in Alberta,
- (c) the amount of an individual's business income outside Alberta,
- (d) the amount of the individual's income determined under section 1(1)(j)(i) and (ii),
- (e) Alberta taxable property for the purposes of section 6.1(6),
- (f) the amount of tax payable by an individual for a taxation year prior to 2001 based on the tax payable under the federal Act for that year, or
- (g) the amount of a tax credit, rebate or deduction under Part 1, Division 3, in respect of the 2001 taxation year or a subsequent taxation year to which an individual is entitled.

**(4)** An appeal lies in respect of the determination of an overpayment for the purposes of section 30.

(5) An appeal to the Court is commenced by serving on the Provincial Minister a notice of appeal in duplicate in prescribed form and by filing a copy of the notice of appeal with the clerk of the Court clerk of the Court at the judicial centre closest to where the individual resides.

(6) A notice of appeal must be served on the Provincial Minister by sending it by registered mail.

(7) The individual appealing must set out in the notice of appeal a statement of the allegations of fact, the statutory provisions and the reasons that the individual intends to submit in support of the appeal.

(8) The individual appealing must pay to the clerk of the Court a fee of \$15 on the filing of the copy of the notice of appeal.

RSA 2000 cA-30 s57;2002 c6 s2;2009 c53 s18;2015 c16 s2;  
2019 c20 s9(42)

#### **Reply to notice of appeal**

**58(1)** The Provincial Minister must, 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 setting out a statement of the further allegations of fact and of the statutory provisions and reasons that the Provincial Minister intends to rely on.

(2) The Court may, in its discretion, strike out a notice of appeal or any part of the notice of appeal for failure to comply with section 57(7) 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, in its discretion,

- (a) strike out any part of a reply for failure to comply with this section or permit the amendment of a reply, or
- (b) strike out a reply for failure to comply with this section and order a new reply to be filed within a time to be fixed by the order.

(4) If a notice of appeal is struck out for failure to comply with section 57(7) and a new notice of appeal is not filed as and when permitted by the Court, the Court may, in its discretion, 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, in its discretion, 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-30 s58;2002 c6 s2

#### **Appeal a Court action**

**59(1)** On the filing of the material referred to in sections 57 and 58, the matter is deemed to be an action in the Court and, unless the Court otherwise orders, ready for hearing.

(2) Any fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in a manner and on any terms the Court may direct.

(3) Sections 171, 173 and 174 of the federal Act apply for the purposes of this Act.

(4) The Court may order payment or repayment of tax, interest and penalties or costs by the individual or the Provincial Minister.

RSA 2000 cA-30 s59;2002 c6 s2;2014 c6 s2

#### **Application to Court**

**60** Sections 166, 167, 179 and 179.1 of the federal Act apply for the purposes of this Act.

2000 cA-35.03 s60

#### **Procedure on appeal**

**61(1)** Except as provided in an Alberta regulation, the practice and procedure of the Court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter deemed to be an action under section 59.

(2) Every judgment given and order made in every action referred to in subsection (1) may be enforced in the same manner and by the similar process as a judgment given or order made in an action commenced in the Court.

2000 cA-35.03 s61

## **Part 3 Collection of Tax**

#### **Tax collection agreement**

**62(1)** The Provincial Minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the Government of Alberta, enter into a tax collection agreement with the Government of Canada under which the Government of Canada will collect taxes, penalties, fines and interest and other amounts payable under this

Act and the old Act on behalf of the Government of Alberta and will make payments to the Government of Alberta in respect of the amounts so collected, in accordance with the terms and conditions of the tax collection agreement.

(2) If a tax collection agreement is in effect, the Receiver General, on behalf of the Provincial Minister, may exercise the powers and perform the duties of the Provincial Minister under this Act in relation to the remittance of any amount as or on account of tax payable under this Act, and may exercise any discretion that the Provincial Minister has under this Act in relation to the remittance.

(3) If a tax collection agreement is in effect, the Minister, on behalf of the Provincial Minister, may exercise the powers and perform the duties of the Provincial Minister under this Act except under sections 33 and 66, and may 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 that, in the opinion of the Minister, it is not in the interests of public policy to produce.

(4) If a tax collection agreement is in effect, the Commissioner of Customs and Revenue may

- (a) exercise the powers and perform the duties of the Minister and exercise any discretion that the Minister has under subsection (3), and
- (b) designate officers of the Canada Customs and Revenue Agency to carry out functions, duties and powers that are similar to those exercised by them on the Commissioner's behalf under the federal Act.

RSA 2000 cA-30 s62;2002 c6 s2

#### **Application of payments by Minister**

**63(1)** A tax collection agreement may provide that where a payment is received by the Minister on account of tax payable by an individual for a taxation year under this Act, the federal Act or an income tax statute of another agreeing province or territory, or under any 2 or more such Acts or statutes, the payment so received may be applied by the Minister towards the tax payable by the individual under any such Act or statute in a manner that may be specified in the agreement, even though the individual directed that the payment be applied in any other manner or made no direction as to its application.

(2) A payment or part of a payment applied by the Minister in accordance with a tax collection agreement towards the tax payable by an individual for a taxation year under this Act or the old Act

- (a) relieves the individual of liability to pay that tax to the extent of the payment or the part of the payment so applied, and
- (b) is deemed to have been applied in accordance with a direction made by the individual.

2000 cA-35.03 s63

**Remissions not recoverable**

**64** If a tax collection agreement is in effect and an amount is remitted to the Minister under subsection 153(1) of the federal Act as it applies for the purposes of this Act on account of the tax of an individual who is resident on the last day of the taxation year in another agreeing province or territory,

- (a) no action lies for recovery of that amount by that individual, and
- (b) the amount may not be applied in discharge of any liability of that individual under this Act.

2000 cA-35.03 s64

**Tax paid to other province or territory**

**65(1)** If a tax collection agreement is in effect, an individual resident in Alberta on the last day of the taxation year is not required to remit any amount on account of tax payable under this Act for the taxation year to the extent of the amount deducted or withheld on account of the individual's tax for that year under the income tax statute of another agreeing province or territory.

**(2)** When the total amount deducted or withheld on account of tax payable under this Act and under the income tax statute of another agreeing province or territory by an individual resident in Alberta on the last day of the taxation year to whom subsection (1) applies exceeds the tax payable by the individual under this Act for that year, section 54 applies in respect of that individual as though the excess were an overpayment under this Act.

2000 cA-35.03 s65

**Non-agreeing provinces or territories**

**66(1)** In this section,

- (a) "adjusting payment" means a payment, calculated in accordance with this section, made by or on the direction of the Government of Alberta to a non-agreeing province or territory;
- (b) "amount deducted or withheld" does not include any refund made in respect of that amount;

(c) “non-agreeing province or territory” means a province or territory that is not an agreeing province or territory.

(2) If, in respect of a taxation year, a non-agreeing province or territory is authorized to make a payment to the Government of Alberta that, in the opinion of the Provincial Minister, corresponds to an adjusting payment, the Lieutenant Governor in Council may authorize the Provincial Minister to make an adjusting payment to that non-agreeing province or territory and enter into any agreement that may be necessary to carry out the purposes of this section.

(3) If a tax collection agreement is entered into, the adjusting payment that may be made pursuant to subsection (2) may be made by the Government of Canada when it has agreed to act on the direction of the Government of Alberta as communicated by the Provincial Minister to the Minister.

(4) Where an adjusting payment is to be made and there has been an amount deducted or withheld under subsection 153(1) of the federal Act as it applies for the purposes of this Act on account of the tax for a taxation year of an individual who is liable to pay tax under the federal Act in respect of that year and who is resident on the last day of that taxation year in the non-agreeing province or territory,

- (a) no action lies for the recovery of that amount by that individual, and
- (b) the amount may not be applied in discharge of any liability of that individual under this Act.

(5) If an adjusting payment to a non-agreeing province or territory is to be made under this section for a taxation year, an individual resident in Alberta on the last day of the taxation year is not required to remit any amount on account of tax payable by the individual under this Act for the taxation year to the extent of the amount deducted or withheld on account of the individual’s income tax for that year under the law of that non-agreeing province or territory.

(6) If an adjusting payment to a non-agreeing province or territory is to be made under this section for a taxation year and the total amount deducted or withheld on account of tax payable under this Act and on account of the income tax payable under the law of the non-agreeing province or territory by an individual resident in Alberta on the last day of the taxation year to whom subsection (5) applies exceeds the tax payable by the individual under this Act for

that year, section 54 of this Act applies in respect of that individual as though the excess were an overpayment under this Act.

(7) If a tax collection agreement is entered into and the Government of Canada has agreed in respect of a taxation year to carry out the direction of the Government of Alberta and to make an adjusting payment on behalf of the Government of Alberta, the adjusting payment must be made out of any money that has been collected on account of tax under this Act for any taxation year.

RSA 2000 cA-30 s66;2002 c6 s2

#### **Reciprocal enforcement of judgments**

**67(1)** A judgment of a superior court of an agreeing province or territory under that province's or territory's income tax statute, including any certificate registered in that superior court in a manner similar to that provided for in subsection 223(3) of the federal Act, may be enforced in the manner provided for in the *Reciprocal Enforcement of Judgments Act* and is deemed to be a judgment to which that Act applies.

(2) For the purposes of subsection (1), when a judgment of a superior court of an agreeing province or territory is sought to be registered under the *Reciprocal Enforcement of Judgments Act*, the judgment must be registered even if it is established that one or more of the provisions of section 2(6) of that Act apply.

(3) For the purposes of subsection (1), the Lieutenant Governor in Council may make regulations to enable the enforcement in Alberta of judgments in respect of taxes in agreeing provinces or territories.

2000 cA-35.03 s67

## **Part 4 Administration and Enforcement**

#### **Application of Part**

**68(1)** In addition to applying to the 2001 taxation year and subsequent taxation years, this Part applies to matters under the old Act.

(2) In this Part, "this Act" includes the old Act.

2000 cA-35.03 s68

#### **Administration and Enforcement**

#### **Administration and collection**

**69** Sections 220, 221.1, 223, 224, 225, 225.1 and 225.2 of the federal Act apply for the purposes of this Act.

2000 cA-35.03 s69

**Remission of tax**

**70(1)** Despite section 26(1), (1.1) and (1.2) of the *Financial Administration Act*, if the Provincial Minister considers it in the public interest to do so, or considers it advisable to do so in a case where injustice or great hardship to an individual has resulted or is likely to result, the Provincial Minister may order the remission of any tax, interest, penalty, cost or other amount not exceeding \$25 000 paid or payable to the Crown in right of Alberta and imposed or authorized under this Act.

**(2)** Section 26(2), (2.2) and (3) of the *Financial Administration Act* apply to the Provincial Minister's power to make a remission under subsection (1).

RSA 2000 cA-30 s70;2002 c6 s2;2006 c23 s10

**Taxes a debt**

**71** All taxes, interest, penalties, costs and other amounts payable under this Act are debts to the Crown in right of Alberta and recoverable as debts in any court of competent jurisdiction or in any other manner provided by this Act.

2000 cA-35.03 s71

**Limitations Act**

**71.1** The *Limitations Act* does not apply to the Crown with respect to any matter arising under this Act.

2001 c13 s3

**Issue of warrant**

**72** The Provincial Minister may issue a warrant directed to a civil enforcement agency for the amount of the tax, interest, penalty and other amounts, or any of them, owing by the individual, together with interest on them from the date of the issue of the warrant and the costs and expenses of the civil enforcement agency, and the warrant has the same force and effect as a writ of enforcement issued under the *Civil Enforcement Act*.

RSA 2000 cA-30 s72;2002 c6 s2

**Collecting debts**

**73(1)** For the purpose of collecting debts owed by an individual to the Crown in right of Alberta under this Act, the Provincial Minister may purchase or otherwise acquire an interest in that individual's property that the Provincial Minister is given a right to acquire in legal proceedings or under a court order or that is offered for sale or redemption.

**(2)** The Provincial Minister may dispose of any interest so acquired under subsection (1) in any manner that the Provincial Minister considers reasonable.

RSA 2000 cA-30 s73;2002 c6 s2



**Payment over of money owed tax debtor**

**74(1)** In this section, “tax debtor” means an individual liable to make a payment under this Act.

**(2)** If the Provincial Minister knows or suspects that a person is holding money that was seized from a tax debtor by a peace officer in the course of administering or enforcing the criminal law of Canada and that the money is required to be restored to the tax debtor, the Provincial Minister may, by a letter served personally or by registered mail, require that person to turn over the money otherwise required to be restored to the tax debtor, in whole or in part, to the Provincial Minister on account of the tax debtor’s liability under this Act.

**(3)** The receipt of the Provincial Minister for money turned over as required by this section is a good and sufficient discharge of the requirement to restore the money to the tax debtor to the extent of the amount so turned over.

RSA 2000 cA-30 s74;2002 c6 s2

**Individual leaving jurisdiction**

**75(1)** When the Provincial Minister suspects that an individual is about to leave Alberta or Canada, the Provincial Minister may before the day otherwise fixed for payment, by notice served personally or by registered mail, demand from the individual payment of all taxes, interest and penalties for which the individual is liable or would be liable if the time for payment had arrived, and they must be paid forthwith despite any other provision of this Act.

**(2)** Section 226 of the federal Act applies for the purposes of this Act except that subsection (1) of this section applies instead of subsection 226(1) of the federal Act.

RSA 2000 cA-30 s75;2002 c6 s2

**Withholding taxes**

**76(1)** Section 227 of the federal Act applies for the purposes of this Act.

**(2)** The Provincial Minister may assess a person for an amount

- (a) that has been deducted or withheld by that person under this Act, and
- (b) that is payable by that person under section 74(2) of this Act or subsection 224(4) or (4.1) or 227(8), (8.2), (8.3), (8.4), (9), (9.2), (9.4) or (9.5) or section 227.1 of the federal Act as it applies for the purposes of this Act,

and, if the Provincial Minister sends a notice of assessment to that person, Divisions I and J of Part I of the federal Act apply for the purposes of this Act.

**(3)** The Provincial Minister may assess a person for an amount that is payable by that person under subsection 227(9), (9.2) or (9.4) of the federal Act as it applies for the purposes of this Act, and if the Provincial Minister sends a notice of assessment to that person, sections 150 to 167, except subsections 164(1.1) to (1.3), and Division J of Part I of the federal Act apply for the purposes of this Act.

RSA 2000 cA-30 s76;2002 c6 s2

#### **Liability of directors**

**77** Section 227.1 of the federal Act applies for the purposes of this Act.

2000 cA-35.03 s77

### **General**

#### **Books and records**

**78** Section 230 of the federal Act applies for the purposes of this Act.

2000 cA-35.03 s78

#### **Communication of information**

**79(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 may

- (a) knowingly communicate, or knowingly allow to be communicated, any tax information to any person,
- (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) if a tax collection agreement is in effect, to the Provincial Minister, the Minister, the Receiver General or the Commissioner of Customs and Revenue for the purposes of the administration and enforcement of this Act;
  - (b) 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 for the purposes of the formulation or analysis of tax or fiscal policy;
    - (iii) to be used solely for the purposes of administering or enforcing this Act, any other taxation statute of Alberta or the *Petroleum Incentives Program Act*, SA 1981 cP-4.1;
    - (iv) to be used solely to identify an individual 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 individual to the Government;

- (v) to be used solely for the purposes of identifying an individual and an amount deducted by that individual under section 35.01 pursuant to an investor tax credit certificate issued under the *Investing in a Diversified Alberta Economy Act*;
- (c) to a person employed or engaged by the Government of Canada or the government of a province or territory in the administration or enforcement of a taxation statute of Canada or of that province or territory 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 or territory supplies the Provincial Minister with equivalent information and records on a reciprocal basis;
- (d) to an employee or agent of the Government of Canada or the government of a province or territory
  - (i) if the tax information consists of the name, address, occupation and size or type of business of an individual 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 or territory 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 or territory, 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;
- (e) to a person to be used solely in the investigation or prosecution of offences under this Act;
- (f) to a justice of the peace or judge of the Provincial Court for the purpose of making an application for an order under section 80;

- (g) to a person employed or engaged in the investigation or prosecution of offences under the *Criminal Code* (Canada) if
  - (i) an order under section 80 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 80;
- (h) to the individual in respect of whom the information was received or any other person if the individual 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 individual.

**(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)(h) or (i).

**(8)** A person who contravenes subsection (2) is guilty of an offence and liable to a fine of not more than \$200.

**(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 \$200.

RSA 2000 cA-30 s79;2002 c6 s2;2008 c32 s7;  
2008 c39 s17;2016 cI-10.5 s82

#### **Communication of information ordered by judge**

**80(1)** A justice of the peace or 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 79(5)(g).

(2) An application for an order under subsection (1) must be in writing and may be made ex parte.

(3) Despite section 79(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.

2000 cA-35.03 s80;2008 c32 s7

### Inspections, search and seizure

**81** Sections 231 to 231.5, 232, 233 and 236 of the federal Act apply for the purposes of this Act.

2000 cA-35.03 s81

### Regulations

**82(1)** The Lieutenant Governor in Council may make regulations

- (a) subject to section 1(1)(p), respecting anything that, by this Act, is to be prescribed or is to be determined or regulated by regulation;
- (b) determining, for the purposes of section 6.1(6), taxable Alberta property;
- (c) providing in any case where, in the opinion of the Lieutenant Governor in Council, there is doubt, the circumstances in which, and extent to which, a provision of the federal regulation applies.

(2) Except to the extent that a provision of the federal regulation is inconsistent with a regulation made under subsection (1) or is expressed by a regulation made under subsection (1) to be inapplicable, the provision of the federal regulation applies, with all necessary modifications, for the purposes of this Act.

(3) A regulation made under this Act is a regulation to which the *Regulations Act* applies but, subject to subsection (5), has no effect unless it has been published as required by that Act.

(4) If a provision of the federal regulation applies for the purposes of this Act, it has, subject to subsection (5), no effect for the purposes of this Act unless it has been published in the Canada Gazette.

(5) A provision of an Alberta regulation or of the federal regulation that applies for the purposes of this Act is, if it so provides, effective with reference to a period before it was published.

RSA 2000 cA-30 s82;2015 c16 s2;2019 c20 s9(43)

#### Offences

**83(1)** Sections 238, 239 and 242 of the federal Act apply for the purposes of this Act.

(2) Every person who fails to comply with a regulation made under section 82(1)(a) is liable to a fine of \$10 a day for each day of default but not exceeding in all \$2500.

2000 cA-35.03 s83

#### Discretion of Minister

**84** If a tax collection agreement is in effect and proceedings under section 238, 239 or 242 of the federal Act are taken against any person, the Minister may take or refrain from any action against that person contemplated by section 238, 239 or 242 of the federal Act as it applies for the purposes of this Act.

2000 cA-35.03 s84

#### Information or complaint

**85(1)** Section 244 of the federal Act applies for the purposes of this Act.

(2) A document purporting to be a tax collection agreement entered into under this Act or an agreement with Canada for the collection of tax imposed under the income tax statute of an agreeing province or territory that is

- (a) published in the Canada Gazette, or
- (b) certified to be a tax collection agreement by or on behalf of
  - (i) the Provincial Minister, or
  - (ii) the provincial treasurer, the provincial secretary-treasurer or the minister of finance of the appropriate agreeing province or territory,

is admissible in evidence as proof, in the absence of evidence to the contrary, of the contents of the agreement.

(3) If a tax collection agreement is in effect, any document or certificate that is executed or issued by the Minister, the Receiver General, the Commissioner of Customs and Revenue, or an official of the Canada Customs and Revenue Agency or an official of the Department of National Revenue on behalf or in place of the

Provincial Minister, the Deputy Provincial Minister or an officer of the Provincial Minister's Department, is deemed, for all purposes of this Act, to be executed or issued by the Provincial Minister, the Deputy Provincial Minister or an officer of the Provincial Minister's Department, as the case may be.

RSA 2000 cA-30 s85;2002 c6 ss2,17

## **Part 4.1**

### **Tax Avoidance**

#### **Application of Part**

**85.01(1)** In addition to applying to the 2001 taxation year and subsequent taxation years, this Part applies to matters under the old Act.

**(2)** In this Part, "this Act" includes the old Act.

2007 c26 s16

#### **Anti-avoidance rules**

**85.1(1)** In this section and section 51(1.1),

- (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 person means the amount of the person's
  - (i) income, taxable income, taxable income earned in Canada or amount taxable in Alberta, or
  - (ii) any amount, other than an amount referred to in subclause (i), that is payable or refundable to the person under this Act or the regulations or that is relevant for the purposes of determining any other amount referred to in this section;
- (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

- (c) to have been undertaken or arranged primarily for bona fide purposes other than for one or more of the following:
  - (i) to obtain a tax benefit;
  - (ii) 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;
  - (iii) to increase a refund of tax, or of another amount in respect of tax, under any other federal or provincial Act or regulation.
- (d) repealed 2015 c21 Sched. 2 s2.

**(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,
    - (i.1) the federal Act as it applies for the purposes of this Act,
  - (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 enactment 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)** Without limiting subsection (2),

- (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 person,
- (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 or the regulations 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 person in a manner that 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.

**(5)** 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 person, or
- (b) a notice of determination pursuant to section 51(1.1) has been sent to a person with respect to the transaction,

any person, other than a person referred to in clause (a) or (b), is entitled, within 180 days after the day of mailing 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 51(1.1) with respect to that transaction.

**(6)** 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 51 involving the application of this section.

(7) On receipt of a request by a person under subsection (5), the Provincial Minister shall, with all due dispatch, consider the request, and notwithstanding subsection 152(4) of the federal Act as it applies for purposes of this Act, assess, reassess or make an additional assessment or determination pursuant to section 51(1.1) with respect to that individual, 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 (5).

2007 c26 s16;2015 c21 Sched. 2 s2;2017 c15 s2

## **Part 5**

### **Transitional Provisions, Consequential Amendments and Coming into Force**

#### **Transitional Provisions**

**86** Repealed 2013 c11 s3.

#### **Proceedings**

**87** Proceedings in respect of a return, assessment, objection or appeal commenced under the old Act are continued as proceedings as if they had been commenced under this Act.

2000 cA-35.03 s87

#### **Consequential Amendments**

**88 to 92** *(These sections make consequential amendments to other Acts. The amendments have been incorporated into those Acts.)*

#### **Coming into Force**

#### **Coming into force**

**93** This Act comes into force on January 1, 2001.

2000 cA-35.03 s94



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