

1982

## c 19 Corporations Tax Amendment Act, 1982

Ontario

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## CHAPTER 19

## An Act to amend the Corporations Tax Act

*Assented to June 25th, 1982*

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

1. Subsection 12 (6) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(6) Where an amount in respect of,

(a) a management or administration fee or charge;

(b) a rent, royalty or a similar payment; or

(c) a right in or to the use of motion picture film or films or video tapes for use in connection with television that have been or are to be used or reproduced in Canada,

s. 12 (6),  
re-enacted;  
s. 12 (6a),  
enacted

Management  
fee, rent and  
similar  
payment to  
non-resident  
to be included  
in income

is paid or payable by a corporation to a non-resident person with whom it was not dealing at arm's length, the corporation shall include 5/14ths of such amount in computing its income from a business or property for the taxation year in which the amount was subjected to tax under paragraph 212 (1)(a), (d) or (e) of the *Income Tax Act* (Canada) or subsection 212 (5) of that Act, except that clause (b) does not apply where the non-resident person to whom the amount is paid or payable is a corporation that is liable to the taxes imposed under this Act by virtue of clause 2 (2) (b) or clause 2 (3) (b) and that has included that amount in computing its taxable income earned in Canada.

R.S.C. 1952,  
c. 148

(6a) Where an amount to which subsection (6) would have applied if it had been paid or payable to a non-resident person is paid or payable by a corporation (in this subsection referred to as the "payer") to a related person resident in Canada other than in Ontario and that person is related to another person not resident in Canada that controls the payer, the payer shall include 5/14ths of such amount in computing its income from a business or property for the taxation year.

Idem

s. 33 (1),  
re-enacted

2.—(1) Subsection 33 (1) of the said Act is repealed and the following substituted therefor:

Small business  
incentives

(1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that, with respect to that taxation year, is eligible for a deduction under section 125 of the *Income Tax Act* (Canada), an amount equal to,

R.S.C. 1952,  
c. 148

(a) 4 per cent of the amount determined under subsection (2); or

(b) 14 per cent of the amount determined under subsection (2) where the corporation has for a tax exempt year made a deduction under subsection 125 (1) of the *Income Tax Act* (Canada).

s. 33 (2) (a, b),  
re-enacted

(2) Clauses 33 (2) (a) and (b) of the said Act are repealed and the following substituted therefor:

(a) with respect to a corporation to which subsection 125 (1) of the *Income Tax Act* (Canada) applies, that proportion of the least of the amounts determined under paragraphs 125 (1) (a), (b), (c) and (d) for the taxation year, not exceeding \$200,000; and

(b) with respect to a corporation to which subsection 125 (1.1) of the *Income Tax Act* (Canada) applies, that proportion of the lesser of the amounts determined under paragraphs 125 (1.1) (a) and (b) for the taxation year, not exceeding \$200,000,

s. 33,  
amended

(3) Section 33 of the said Act is amended by adding thereto the following subsections:

Definition,  
tax exempt  
year

(2a) For the purpose of clause (1) (b), a “tax exempt year” of a corporation is a taxation year ending after the 13th day of May, 1982 and before the 14th day of May, 1984, but in no case shall a corporation have more than two tax exempt years.

Interpre-  
tation,  
non-arm's  
length  
transactions

(2b) For the purpose of subsection (2a), where at any time after the 13th day of May, 1982, property of a corporation (hereinafter referred to as the “vendor”) is acquired, by purchase or otherwise (including an acquisition as a result of an amalgamation described in section 87 of the *Income Tax Act* (Canada)), by another corporation (hereinafter referred to as the “purchaser”) not dealing at arm’s length with the vendor, and the property constitutes all or substantially all of the property of the vendor or the purchaser, as the case may be, any tax exempt year

of the vendor for which the vendor has made a deduction under clause (1) (b), ending in or before the taxation year of the purchaser in which the property was acquired, shall be deemed to be a tax exempt year of the purchaser for which the purchaser has made a deduction under clause (1) (b).

3.—(1) Subsection 53 (2) of the said Act is repealed and the following substituted therefor: s. 53 (2), re-enacted

(2) Notwithstanding subsection (1), the taxable paid-up capital of a bank for a taxation year is its taxable paid-up capital as it stood at the close of the taxation year, and includes, Taxable paid-up capital of banks

- (a) its paid-up capital stock;
- (b) its contributed surplus, its general reserve, and all of its other reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a charge against income under the provisions of Part II; and
- (c) its retained earnings, its capital surplus, and any other surplus not included by virtue of clause (b).

(2) Section 53 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 10, is further amended by adding thereto the following subsections: s. 53, amended

(5) For the purpose of subsection (2), in computing the taxable paid-up capital of a bank there shall be excluded any amount that represents its share of the accumulated earnings or losses of another corporation, and there shall be included the amount of any dividends received from that other corporation. Interpretation, banks

(6) For the purpose of subsection (3), in computing the taxable paid-up capital of a corporation registered under the *Loan and Trust Corporations Act* there shall be excluded any amount that represents its share of the accumulated earnings or losses of another corporation, and there shall be included the amount of any dividends received from that other corporation. Interpretation, loan and trust corporations R.S.O. 1980, c. 249

(7) For the purpose of clause (1) (e), the indebtedness of a corporation that is the beneficiary of a trust shall include the same proportion of the indebtedness of the trust secured by the assets of the trust as its beneficial interest in the trust. Interpretation, trusts

4. Section 54 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 11, is further amended by adding thereto the following subsections: s. 54, amended

Interpre-  
tation,  
"total assets"

(2a) For the purpose of clause (1) (c), "total assets" of a corporation includes the same proportion of the total assets of a partnership of which the corporation is a partner as the share of the profits of the partnership to which the corporation is entitled under the partnership agreement, but does not include the amount invested by the corporation in the partnership.

Interpre-  
tation, "any  
other surplus"

(2b) For the purpose of this Part, "any other surplus" includes, in addition to any amount included therein by virtue of subsection (3), any amount required to be included in income for the purpose of Part II, other than,

(a) an amount referred to in subsections 12 (6) and (6a); and

(b) an amount referred to in paragraph 12 (1) (o), subsections 15 (1) and (2), 17 (1) and subsection 37.1 (3) of the *Income Tax Act* (Canada) as made applicable by virtue of subsection 12 (1) of this Act,

R.S.C. 1952,  
c. 148

to the extent that such amount is not included in the corporation's income as shown in its financial statements.

s. 70 (2) (a),  
re-enacted

5.—(1) Clause 70 (2) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 14, is repealed and the following substituted therefor:

(a) on or before,

(i) the last day of each month of the taxation year in respect of which the tax is payable, an instalment equal to one-twelfth of,

(A) the tax payable as estimated by it for the taxation year, or

(B) its first instalment base for the taxation year, or

(ii) the last day of each of the first two months of the taxation year in respect of which the tax is payable an instalment equal to one-twelfth of its second instalment base for the taxation year, and on or before the last day of each of the following ten months of the taxation year an instalment equal to one-tenth of the amount remaining after deducting the amount computed pursuant to this subclause in respect of the first two months of the taxation year from,

- (A) the tax payable as estimated by it for the taxation year under subclause (i), or
- (B) its first instalment base for the taxation year.

(2) Section 70 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 14, is further amended by adding thereto the following subsections: s. 70, amended

(8) For the purpose of subsection (2), where the taxation year of a corporation does not end on the last day of a calendar month, any reference in the said subsection (2) to the last day of a month shall be deemed, in respect of that corporation, to be a reference to the day of that month corresponding to the day on which the previous taxation year ended, except that where the previous taxation year ends on the 29th, 30th or 31st day of a month, the said reference to the last day of a month shall, with respect to the month of February, be deemed to be a reference to the last day of that month. Idem

(9) For the purpose of calculating, for a corporation to which clause 33 (1) (b) applied in a previous taxation year, the instalments required under clause (2) (a) for a taxation year other than a tax exempt year as defined in subsection 33 (2a), and for the purpose of calculating its first instalment base and second instalment base for that taxation year, the corporation shall be deemed to have made a deduction from tax under clause 33 (1) (a) and not 33 (1) (b). Idem

6. Section 75 of the said Act is amended by adding thereto the following subsection: s. 75, amended

(1a) Where a corporation is eligible for the deduction from tax under clause 33 (1) (b) in respect of its first taxation year ending after the 13th day of May, 1982, and it has paid instalments of tax in accordance with clause 70 (2) (a) in respect of that taxation year, the Minister may make a refund of such instalments if application therefor has been made in writing by the corporation prior to the date of assessment under section 73. Idem

7. Subsection 76 (2) of the said Act is repealed and the following substituted therefor: s. 76 (2), re-enacted

(2) Subsection (1) does not apply with respect to any refund or amount to which subsection 75 (1a) or (5) applies. Application

8.—(1) Subsection 5 (1) and subsection 70 (8) of the said Act, as enacted by subsection 5 (2) of this Act, shall be deemed to have Commencement and application

come into force on the 1st day of January, 1981 and apply to corporations in respect of all taxation years ending after 1980.

Idem

- (2) Section 1 shall be deemed to have come into force on the 14th day of May, 1982 and applies to payments made after the 13th day of May, 1982.

Idem

- (3) Subsections 2 (1) and (3), sections 3 and 4, subsection 70 (9) of the said Act, as enacted by subsection 5 (2) of this Act, and sections 6 and 7 shall be deemed to have come into force on the 14th day of May, 1982 and apply to corporations in respect of all taxation years ending after the 13th day of May, 1982.

Idem

- (4) Subsection 2 (2) shall be deemed to have come into force on the 1st day of January, 1982 and applies to corporations in respect of all taxation years ending after 1981.

Short title

9. The short title of this Act is the *Corporations Tax Amendment Act, 1982*.