

1985

c 11 Corporations Tax Amendment Act, 1985

Ontario

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CHAPTER 11

An Act to amend the Corporations Tax Act

Assented to December 18th, 1985

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

1.—(1) Subclause 1 (1) (aa) (i) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 29, section 1, is repealed and the following substituted therefor:

(i) paragraph 125 (7) (d).

(2) Subclause 1 (1) (d) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 1, is repealed and the following substituted therefor:

- (i) all shares of the capital stock of which that confer on the holder thereof the right to vote were owned by,
- (A) an individual ordinarily resident in Canada or by that individual and a member or members of that individual's family ordinarily resident in Canada or by another family farm corporation, or
 - (B) another corporation, all shares of the capital stock of which that confer on the holder thereof the right to vote were owned directly or indirectly by a person or persons referred to in sub-subclause (A).

(3) Subclause 1 (1) (d) (iii) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 1, is amended by adding at the end thereof "or, where sub-subclause (i) (B) applies, through the employment of the person or persons referred to in sub-subclause (i) (A)".

(4) Subclause 1 (1) (e) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 1, is repealed and the following substituted therefor:

- (i) all shares of the capital stock of which that confer on the holder thereof the right to vote were owned by,
 - (A) an individual ordinarily resident in Canada or by that individual and a member or members of that individual's family ordinarily resident in Canada or by another family fishing corporation, or
 - (B) another corporation, all shares of the capital stock of which that confer on the holder thereof the right to vote were owned directly or indirectly by a person or persons referred to in sub-subclause (A).

(5) Subclause 1 (1) (e) (iii) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 1, is amended by adding at the end thereof "or, where sub-subclause (i) (B) applies, through the employment of the person or persons referred to in sub-subclause (i) (A)".

(6) Subsection 1 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 1, 1983, chapter 29, section 1 and 1984, chapter 29, section 1, is further amended by adding thereto the following clause:

- (ja) "special small corporation" has the meaning given to that expression by subsection 67 (1a).

(7) Subclause 1 (2) (d) (iv) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 1, is amended by inserting after "paragraph 133 (8) (b)," in the seventh line "subsection 137 (4.3)."

2.—(1) Subsection 2 (2) of the said Act is amended by striking out "which jurisdiction has not entered into a Tax Convention or Treaty with Canada for the taxation year," in the second, third and fourth lines.

(2) Subsections 2 (3) and (4) of the said Act are repealed.

3. Section 3 of the said Act is amended by striking out "or (3)" in the first line.

4. Subsection 6 (2) of the said Act is amended by striking out “or (3)” in the third line.

5.—(1) Subsection 9 (3) of the said Act is amended by inserting after “income” in the fourth line “or taxable income, as the case may be,”.

(2) Section 9 of the said Act is amended by adding thereto the following subsection:

(4) Notwithstanding subsections 111 (1) and (3) of the *Income Tax Act (Canada)* as made applicable by section 27, in the application of subsection (3), where a corporation has deducted an amount in respect of a non-capital loss, net capital loss, restricted farm loss or farm loss determined for a particular taxation year (in this subsection referred to as the “loss year”) in computing its taxable income for another taxation year, the aggregate of such losses determined for the loss year and subsequent taxation years shall, for the purpose of subsection (3), be deemed to be amounts deducted under the provisions of the *Income Tax Act (Canada)* in computing taxable income in previous taxation years in respect of which the corporation was not subject to tax under Part II of this Act, to the extent of the aggregate of such losses deducted in computing taxable income of the corporation for the purposes of the *Income Tax Act (Canada)* for such previous taxation years, and where such aggregate of losses includes losses determined for more than one taxation year, no loss for any year shall be deemed to have been deducted until all losses determined for prior years have been either deducted or deemed to have been deducted.

Idem
R.S.C. 1952,
c. 148

6.—(1) Subsection 12 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 1 and amended by 1983, chapter 29, section 2, 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 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,

Management
fees, rents,
royalties and
similar
payments to
non-residents

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 5/15.5 of such amount in computing its income from a business or property for the taxation year in which the amount is deducted in computing its income, except that this subsection does not apply where the non-resident person to whom the amount is paid or payable is a corporation liable to tax imposed under this Act (herein referred to as the "recipient corporation") and the amount has been included in computing the taxable income earned in Canada of the recipient corporation.

(2) Subsection 12 (6a) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 1 and amended by 1983, chapter 29, section 2, is further amended by striking out "5/15ths" in the amendment of 1983 and inserting in lieu thereof "5/15.5".

(3) Section 12 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 3, 1982, chapter 19, section 1, 1983, chapter 29, section 2 and 1984, chapter 29, section 2, is further amended by adding thereto the following subsections:

Idem

(6b) Where it is reasonable for the Minister to believe that one of the principal purposes of the provisions of a contract or arrangement between two or more persons is to avoid the application of subsection (6) to an amount paid or payable to which it would otherwise apply, subsection (6) shall, except where subsection (6a) applies, apply to that portion of the amount which the Minister considers reasonable in the circumstances.

Inventory allowance disallowed R.S.C. 1952, c. 148

(16) Paragraph 20 (1) (gg) of the *Income Tax Act* (Canada) is not applicable in computing the income of a corporation for a taxation year for the purposes of this Act.

7. Subsection 13 (2) of the said Act is repealed and the following substituted therefor:

Idem

(2) Subsections 39 (7) and (8) and paragraph 48 (1) (c) of the *Income Tax Act* (Canada) do not apply for the purposes of this Act.

8.—(1) Subsection 23 (3) of the said Act is repealed and the following substituted therefor:

Idem

(3) Paragraphs 87 (2) (y.1), (z), (cc) and 88 (1) (e.7) of the *Income Tax Act* (Canada) are not applicable for the purposes of this Act.

(2) Subsection 23 (4) of the said Act is amended by striking out "paragraph 87 (2) (z)" in the third line and inserting in lieu thereof "paragraphs 87 (2) (y.1) and (cc)".

(3) Subsection 23 (5) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 7, is further amended by inserting after "section 84.2," in the second line "subsection 85 (7.1),".

9. Subsection 24 (2) of the said Act is repealed and the following substituted therefor:

(2) In the application of the said subdivision i for the purposes of this Act, Definition

- (a) the references therein to "Minister" shall be deemed to be references to the Minister of National Revenue for Canada;
- (b) the reference in subsection 94.1 (1) to "this Part" shall be deemed to be a reference to Part II of this Act; and
- (c) the aggregate referred to in paragraph 94.1 (1) (f) computed for the purposes of that Act shall apply for the purposes of this Act.

10. Section 25 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 9, is further amended by adding thereto the following subsection:

(5) In the application of the said subdivision j for the purposes of this Act, the reference in subsection 96 (5.1) to "Minister" shall be deemed to be a reference to the Minister of National Revenue for Canada. Definition

11. Subsection 27 (5) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 8, is amended,

- (a) by adding "Notwithstanding subsection 111 (3) of the *Income Tax Act* (Canada) as made applicable by section 27 of this Act," at the commencement thereof; and
- (b) by striking out "except for the purposes of clause 33 (2c) (b)," in the fifth line.

12.—(1) Subsection 29 (1) of the said Act is amended by striking out "or (3)" in the second line.

(2) Clause 29 (1) (a) of the said Act is repealed and the following substituted therefor:

- (a) there shall be included,
 - (i) income from property that is real property situated in Canada, or any interest therein, including,
 - (A) amounts that arose from the sale or rental of such property or interest therein, or both, and
 - (B) royalties and similar payments in respect of such property or interest therein, and
 - (ii) timber royalties in respect of a timber resource property or a timber limit situated in Canada; and

(3) Subsection 29 (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 8, is amended by striking out “2 (3) (b)” in the second line and inserting in lieu thereof “2 (2) (b)”.

(4) Section 29 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 8, is further amended by adding thereto the following subsection:

Idem

(3) Where a transitional rule in a prescribed Tax Treaty or Convention between Canada and another country has applied to exclude an amount otherwise included in taxable income earned in Canada for the purposes of the *Income Tax Act* (Canada) in respect of a disposition of a taxable Canadian property, that rule shall be applied for the purposes of this Act to determine the amount, if any, to be excluded from taxable income earned in Canada in respect of that disposition.

R.S.C. 1952,
c. 148

13. Section 30 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 11, is further amended by striking out “15 per cent” in the amendment of 1983 and inserting in lieu thereof “15.5 per cent”.

14. Section 31 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 12, is further amended by striking out “15 per cent” in the amendment of 1983 and inserting in lieu thereof “15.5 per cent”.

15.—(1) Clause 32 (1) (c) of the said Act is repealed and the following substituted therefor:

- (c) for the purposes of subsection 126 (2) of the *Income Tax Act* (Canada), R.S.C. 1952,
c. 148
- (i) such foreign investment income has not been included as part of such foreign business income,
 - (ii) such foreign investment income has been excluded from the calculation of gross revenue or any part thereof for the purpose of allocating taxable income to a jurisdiction outside Ontario in accordance with the regulations made under section 31, and
 - (iii) where the corporation is a bank which has allocated any of its taxable income for the taxation year to a jurisdiction outside Canada under the regulations made under section 31, such foreign investment income has not been derived from loans and deposits of the bank's permanent establishments in jurisdictions outside Canada used in the determination of such allocation; and

(2) Clause 32 (1) (e) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 9, is amended by striking out "15 per cent" in the first line and inserting in lieu thereof "15.5 per cent".

16.—(1) Clauses 33 (1) (a) and (b) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 2 and amended by 1983, chapter 29, section 14, are repealed and the following substituted therefor:

- (a) 5.5 per cent of the amount determined under subsection (2) where the corporation has made a deduction under section 125 of the *Income Tax Act* (Canada); or R.S.C. 1952,
c. 148
- (b) where the year is a tax exempt year, 15 per cent of the amount determined under clause (2a) (b) where the corporation has made a deduction under section 125 of the *Income Tax Act* (Canada), plus 5 per cent of the amount, if any, by which the amount

determined under subsection (2) exceeds the amount determined under clause (2a) (b).

(2) Subsection 33 (2) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 19, section 2, is repealed and the following substituted therefor:

Idem

R.S.C. 1952,
c. 148

(2) For the purposes of subsections (1) and 33a(1), the amount determined under this subsection is the least of the amounts determined under paragraphs 125 (1) (a), (b) and (c) of the *Income Tax Act* (Canada) for the taxation year, not exceeding \$200,000, multiplied by the Ontario small business allocation factor for the taxation year.

(3) Subsection 33 (2a) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 14, is repealed and the following substituted therefor:

Idem

(2a) For the purposes of clause (1) (b),

(a) 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, 1985, but in no case shall a corporation be entitled to have more than three tax exempt years; and

(b) the amount determined under this clause for the taxation year is the product of the Ontario small business allocation factor for the taxation year multiplied by the lesser of,

(i) \$200,000, and

(ii) the least of the amounts under paragraphs 125 (1) (a), (b), (c) and (d) of the *Income Tax Act* (Canada) determined as if the provisions of section 125 of that Act, as they read on the 31st day of December, 1984, applied to that taxation year.

R.S.C. 1952,
c. 148

(4) Subsection 33 (2b) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 2 and amended by 1983, chapter 29, section 14, is further amended by striking out "subsection (2a)" in the first line and inserting in lieu thereof "clause (2a) (a)".

(5) Clause 33 (2c) (b) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 10, is amended by inserting after "subsection 27 (1)," in the third line "or deemed to have been deducted by subsection 27 (5),".

(6) Section 33 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 19, section 2, 1983, chapter 29, section 14 and 1984, chapter 29, section 10, is further amended by adding thereto the following subsection:

(2d) For the purposes of this section and section 33a, the Ontario small business allocation factor for the taxation year is the ratio that, Idem

- (a) the amount of that portion of the corporation's taxable income for the taxation year that is deemed to have been earned in Ontario, measured in accordance with paragraph 124 (4) (a) of the *Income Tax Act* (Canada), R.S.C. 1952,
c. 148

is to,

- (b) the total amount of the portions of the corporation's taxable income for the taxation year that are deemed to have been earned in provinces of Canada, measured in accordance with paragraph 124 (4) (a) of the *Income Tax Act* (Canada).

17.—(1) Subsection 33a (1) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 11, is repealed and the following substituted therefor:

(1) There may be deducted from the tax otherwise payable under this Part, for the first, second or third taxation year of a corporation that was incorporated after the 13th day of May, 1982, an amount equal to 15.5 per cent of the amount determined under subsection 33 (2), if the corporation is eligible to claim and has claimed, with respect to the taxation year, a deduction under section 125 of the *Income Tax Act* (Canada). New
enterprise
incentive

(2) Subsection 33a (2) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 11, is repealed.

(3) Subsection 33a (7) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 11, is amended by adding thereto the following clause:

- (aa) "entity" has the meaning ascribed thereto by paragraph 125 (9) (b) of the *Income Tax Act* (Canada) as that paragraph read on the 1st day of January, 1984; and R.S.C. 1952,
c. 148

(4) Section 33a of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 11, is amended by adding thereto the following subsection:

Deemed
connected

(8) For the purposes of this section, where a business is at any time a business connected with one or more corporations, that business shall be deemed to be a business connected with any other corporation that is controlled at that time by the one or more corporations.

18.—(1) Clause 34 (2) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 12, is repealed and the following substituted therefor:

- (a) the amount, if any, by which the corporation's eligible Canadian profits for the taxation year exceeds the least of the amounts determined under paragraphs 125 (1) (a), (b) and (c) of the *Income Tax Act* (Canada) in respect of the corporation for the taxation year; and

(2) Subclause 34 (2) (b) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 12, and subclause 34 (2) (b) (ia) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 12, are repealed and the following substituted therefor:

- (i) the least of the amounts determined under paragraphs 125 (1) (a), (b) and (c) of the *Income Tax Act* (Canada) in respect of the corporation for the taxation year.

R.S.C. 1952,
c. 148

19.—(1) Subsection 40 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 15, is repealed and the following substituted therefor:

Idem

(2) In the application of subsection 131 (2) of the said Act for the purposes of this Act,

- (a) the reference to "3 years" in the fourth line thereof shall be read as "4 years";
- (b) the percentage referred to in subparagraph (a) (i) thereof shall be read as "7.75 per cent";
- (c) subparagraph (b) (i) shall be read in its entirety as "the 8 year period referred to in clause 73 (7) (b), where that clause applies"; and

- (d) subparagraph (b) (ii) shall be read in its entirety as “the 6 year period referred to in clause 73 (7) (c), in any other case”.

(2) Subsection 40 (4) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 15, is further amended by striking out “13 1/3 times” in the amendment of 1983 and inserting in lieu thereof “12 28/31 times”.

(3) Clause 40 (5) (a) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 15, is amended by striking out “15 per cent” in the second line and inserting in lieu thereof “15.5 per cent”.

20. Subsection 41 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 13, is repealed and the following substituted therefor:

(3) The provisions of section 134 of the *Income Tax Act* (Canada) are applicable for the purposes of this Act.

R.S.C. 1952,
c. 148,
s. 134
applicable

21.—(1) Subsection 43 (1) of the said Act is amended by striking out “in computing the income of credit unions” in the third line.

(2) Subsection 43 (2) of the said Act is repealed and the following substituted therefor:

(2) Subsection 137 (3) of the said Act is not applicable for the purposes of this Act.

Exception

(3) In the application of paragraph 137 (4.3) (a) of the said Act for the purposes of this Act, the reference therein to “the amount deductible under section 125” is deemed to include an amount deemed by subsection 137 (4) of that Act to be an amount deductible or a deduction under section 125 of that Act.

Application
of
R.S.C. 1952,
c. 148,
s. 137 (4.3)
(a)

(4) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that was, throughout the taxation year, a credit union an amount equal to 5.5 per cent of the amount, if any, by which,

Additional
deduction

(a) the lesser of,

(i) the corporation’s taxable income for the year,
and

(ii) the amount, if any, by which 4/3 of the corporation’s maximum cumulative reserve at the

end of the year exceeds the corporation's preferred-rate amount at the end of its immediately preceding taxation year,

exceeds,

R.S.C. 1952,
c. 148

- (b) the least of the amounts determined under paragraphs 125 (1) (a) to (c) of the *Income Tax Act* (Canada) in respect of the corporation for the taxation year.

Idem

(5) For the purposes of subsection (4) and subsection 137 (4.3) of the *Income Tax Act* (Canada), as made applicable by this section, in the calculation of a corporation's deduction, if any, under subsection (4) in respect of the first taxation year for which it is entitled to a deduction under subsection (4), its preferred-rate amount at the end of its immediately preceding taxation year is deemed to be its preferred-rate amount at the end of the immediately preceding taxation year as determined for the purposes of subsection 137 (3) of the *Income Tax Act* (Canada).

22. Clause 50 (b) of the said Act is amended by striking out "or 2 (3) (a) or (b)" in the second line.

23. Section 52 of the said Act is amended by striking out "or 2 (3) (a) or (b)" in the third line.

24.—(1) Section 54 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 11, 1982, chapter 19, section 4, 1983, chapter 29, section 18 and 1984 chapter 29, section 16, is further amended by adding thereto the following subsection:

Definition

(3a) For the purposes of this Part, "total assets" and "cost of investments" includes any amount included in income for the year or a preceding year under subsection 91 (1) of the *Income Tax Act* (Canada) as made applicable by subsection 24 (1) of this Act.

R.S.C. 1952,
c. 148

(2) Subsection 54 (4) of the said Act is amended by striking out "Subsections (1) and (3)" in the first line and inserting in lieu thereof "Subsections (1) and (3a)".

25. Subsection 55 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 12, is further amended by striking out "or 2 (3) (a) or (b)," in the third and fourth lines.

26. Section 60 of the said Act is amended by striking out “section 59” in the first line and inserting in lieu thereof “sections 58 and 59”.

27. Section 62 of the said Act is amended by striking out “or 2 (3) (c)” in the fourth line.

28.—(1) Subsection 63 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 18, is amended by striking out “every corporation referred to in clause 1 (1) (d) or (e) and” in the first and second lines and inserting in lieu thereof “a family farm corporation, a family fishing corporation and every corporation referred to in”.

(2) Subsection 63 (3) of the said Act is amended by striking out “corporation referred to in clause 1 (1) (d)” in the first and second lines and inserting in lieu thereof “family farm corporation”.

29.—(1) Subsection 67 (1) of the said Act is repealed and the following substituted therefor:

(1) Every corporation,

Annual
return

- (a) other than a corporation that is a special small corporation, shall, if it is subject to tax under this Act for the taxation year, deliver to the Minister, on or before the last day of the sixth month following the close of the taxation year, such return in respect of the taxation year as is required for the purpose of carrying out the provisions of this Act;
- (b) that is a special small corporation, shall, notwithstanding subclause (1) (a), deliver, in respect of a taxation year or years, such return or returns as may be required for the purposes of carrying out an assessment under subsection 73 (8);
- (c) shall, upon receipt of a notice or demand in writing from the Minister or from any officer of the Ministry of Revenue authorized by the Minister to make such demand, deliver to the Minister such return in respect of the taxation year as is required for the purpose of carrying out the provisions of this Act.

(2) Section 67 of the said Act is amended by adding thereto the following subsection:

Special
small
corporations
R.S.O. 1980,
c. 249

(1a) For the purposes of subsection (1), a corporation other than a bank, a corporation registered under the *Loan and Trust Corporations Act* or an insurance corporation to which Part IV applies, is a special small corporation for a taxation year if,

(a) it was throughout the taxation year a Canadian-controlled private corporation;

R.S.C. 1952,
c. 148

(b) it has filed a return under Part I of the *Income Tax Act* (Canada) for the taxation year;

(c) its gross revenue for the taxation year is less than \$1,000,000;

(d) the amount of its total assets at the end of the taxation year for the purposes of Part III of this Act is less than \$1,000,000; and

(e) its only tax payable under this Act for the taxation year is tax imposed by Part III not in excess of \$100.

(3) Subsection 67 (3) of the said Act is repealed and the following substituted therefor:

Trustees,
etc.

(3) Notwithstanding subsection (1), every trustee in bankruptcy, assignee, liquidator, curator, receiver, trustee or committee and every agent or other person administering, managing, winding-up, controlling or otherwise dealing with the property, business, estate or income of a corporation that has not filed a return for the taxation year shall file such return for the corporation in respect of the taxation year as is required for the purpose of carrying out the provisions of this Act.

30. Section 68 of the said Act is amended by adding thereto the following subsection:

Deemed time
of delivery

(1a) For the purposes of subsection (1), the return required under subsection 67 (1) shall be deemed to have been delivered on the day prescribed by regulation.

31.—(1) Subclauses 70 (2) (b) (i) and (ii) of the said Act, are repealed and the following substituted therefor:

(i) subject to subsection (2a), on or before the last day of the third month following the taxation year, where the corporation was,

throughout the taxation year, a Canadian-controlled private corporation and,

(A) its taxable income for the immediately preceding taxation year does not exceed \$200,000, or

(B) it was a special small corporation for the taxation year, or

(ii) on or before the last day of the second month following the taxation year, in any other case.

(2) Section 70 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 14, 1982, chapter 19, section 5, 1983, chapter 29, section 20 and 1984, chapter 29, section 19, is further amended by adding thereto the following subsection:

(2a) For the purposes of subclause 70 (2) (b) (i), where the immediately preceding taxation year is less than 51 weeks, the reference therein to "\$200,000" shall be read as "that proportion of \$200,000 that the number of days in the immediately preceding taxation year is of 365". ^{Idem}

(3) Subsection 70 (9) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 19, is amended,

(a) by striking out "such" in the fourth line and inserting in lieu thereof "a"; and

(b) by striking out "calculating" in the sixth line.

(4) Clauses 70 (9) (a), (b) and (c) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 19, are repealed and the following substituted therefor:

(a) calculating the instalments required under clause (2) (a); and

(b) calculating its first instalment base and its second instalment base for the purposes of clause (2) (a); and

(ba) determining whether the tax payable for the immediately preceding taxation year is less than \$2,000 for the purposes of subsection (3),

- (c) a tax exempt year within the meaning of clause 33 (2a) (a); and

32.—(1) Subsection 72 (5a) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 21, is repealed and the following substituted therefor:

Subs. (5) not applicable

(5a) Where a corporation,

- (a) fails to submit the information required by subsection 67 (2), in the return required by subsection 67 (1); or
- (b) did not file a return under subsection 67 (1) for the taxation year on the basis that it was a special small corporation, and it is subsequently determined that it was not a special small corporation for that year,

subsection (5) does not apply if the tax payable by virtue of the reassessment is greater than the tax previously assessed.

(2) Section 72 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 21, is further amended by adding thereto the following subsections:

Deemed "day of payment"

(8) For the purposes of subsections (1) and (4), the "day of payment" shall be deemed to be the day prescribed by regulation.

Deemed paid

(9) For the purposes of clause (1) (b), an "amount paid on account" shall be deemed to have been paid on the day prescribed by regulation.

33.—(1) Subsection 73 (1) of the said Act is repealed and the following substituted therefor:

Assessment of returns

(1) The Minister shall, with all due dispatch,

- (a) examine each return delivered under section 67;
- (b) assess the tax for the taxation year and the interest and penalties, if any, payable,
- (i) on the basis of the corporation's return in respect of the year, or
- (ii) where the corporation is a special small corporation for the taxation year, on the basis of

the payment of the balance of tax payable for the year as required under sub-subclause 70 (2) (b) (i) (B); and

- (c) determine the amount of refund, if any, to which the corporation may be entitled by virtue of section 38 or 40 for the taxation year.

(2) Section 73 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 22 and 1984, chapter 29, section 20, is further amended by adding thereto the following subsection:

(7a) Where the Minister is authorized to issue an assessment under subsection (7) by reason only that the corporation has filed a waiver under subclause (7) (a) (iv) or (v), the Minister may not issue an assessment later than one year after the date on which the corporation has,

When
assessment
may issue

- (a) filed a notice of revocation of the waiver in prescribed form, where the waiver was filed under subclause (7) (a) (iv); or
- (b) filed with the Minister a copy of the notice of revocation of the waiver filed under subsection 152 (4.1) of the *Income Tax Act* (Canada), where the waiver was filed with the Minister of National Revenue under subsection 152 (4) of that Act.

R.S.C. 1952,
c. 148

34.—(1) Subsection 75 (1) of the said Act is amended by inserting after “delivered” in the second line “or, where the corporation is a special small corporation for the taxation year, it has paid the balance of tax payable as required under sub-subclause 70 (2) (b) (i) (B) for the taxation year,”.

(2) Section 75 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 19, section 6 and 1983, chapter 29, section 23, is further amended by adding thereto the following subsection:

(6a) In the application of this section,

Interpretation

- (a) a return shall be deemed to have been delivered for the purposes of subsection (1);
- (b) a payment shall be deemed to have been made for the purposes of subsection (5); and
- (c) an amount shall be deemed to have been paid on account for the purposes of subsection (6),

on the day or days prescribed by regulation.

35. Section 76 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 16 and 1982, chapter 19, section 7, is further amended by adding thereto the following subsection:

Idem

(1a) For the purpose of subsection (1) and subject to subsection (3),

(a) "overpayment" means the amount by which the amount paid exceeds the amount required to be paid under clause 70 (2) (a) or (b), as applicable; and

(b) an overpayment shall be deemed to have arisen on the day prescribed by regulation.

Commence-
ment and
application

36.—(1) Subsection 1 (1), clause 33 (1) (b) of the said Act, as re-enacted by subsection 16 (1) of this Act, subsection 33 (2) of the said Act, as re-enacted by subsection 16 (2) of this Act, except for its application for the purposes of subsection 33a (1) of the said Act, subsections 16 (3) and (4), subsection 33 (2d) of the said Act, as enacted by subsection 16 (6) of this Act, except for its application for the purposes of section 33a of the said Act, section 18, the removal of the reference to subsection 54 (3) of the said Act from subsection 54 (4) of the said Act by subsection 24 (2) of this Act and clause 70 (9) (c) of the said Act, as re-enacted by subsection 31 (4) of this Act, shall be deemed to have come into force on the 1st day of January, 1985 and apply to corporations in respect of all taxation years ending after the 31st day of December, 1984.

Idem

(2) Subsections 1 (2), (3), (4), (5) and (7), subsections 12 (2) and 15 (1), sections 21, 26 and 28, subsection 31 (1), other than in respect of its application to a special small corporation, and subsection 31 (2) come into force on the day after the day this Act receives Royal Assent and apply to corporations in respect of all taxation years ending after the day this Act receives Royal Assent.

Idem

(3) Subsection 1 (6), section 29, subsection 31 (1) as it applies with respect to special small corporations, and subsections 32 (1), 33 (1) and 34 (1) come into force on the 1st day of April, 1986, and apply to corporations with respect to taxation years ending after the 31st day of March, 1986.

Idem

(4) Sections 2, 3 and 4, subsections 12 (1), (3) and (4) and sections 22, 23, 25 and 27 of this Act shall be deemed to have come into force on the 1st day of January, 1985, and apply to

corporations in respect of all taxation years commencing after the 31st day of December, 1984.

(5) Section 5 shall be deemed to have come into force on the 1st day of January, 1983, and applies to the computation of taxable income of corporations for the 1983 and subsequent taxation years and with respect to losses of corporations determined for the 1983 and subsequent taxation years. Idem

(6) Subsection 6 (1) and subsection 12 (6b) of the said Act, as enacted by subsection 6 (3) of this Act, shall be deemed to have come into force on the 1st day of January, 1985 and apply to amounts deducted in computing the income of corporations for taxation years ending after the 31st day of December, 1984, except that, Idem

- (a) the repeal of the reference to clauses 2 (2) (b) and 2 (3) (b) of the said Act in subsection 12 (6) of that Act, as re-enacted by subsection 6 (1) of this Act, shall be deemed to have come into force on the 1st day of January, 1985 and apply to corporations in respect of all taxation years commencing after the 31st day of December, 1984; and
- (b) the substitution in subsection 12 (6) of the said Act, as re-enacted by subsection 6 (1) of this Act, of "5/15.5" in lieu of "5/15ths" shall come into force and apply in the manner set out in subsection (7).

(7) The substitution of "5/15.5" in lieu of "5/15ths" in subsection 12 (6) of the said Act, as re-enacted by subsection 6 (1) of this Act, subsection 6 (2), sections 13 and 14, subsection 15 (2), clause 33 (1) (a) of the said Act, as re-enacted by subsection 16 (1) of this Act, the substitution of "15.5 per cent" in lieu of "15 per cent" in subsection 33a (1) of the said Act, as re-enacted by subsection 17 (1) of this Act, clause 40 (2) (b) of the said Act, as enacted by subsection 19 (1) of this Act, subsections 19 (2) and (3), except for the purposes of computing the "refundable capital gains tax on hand" of mutual fund corporations, shall be deemed to have come into force on the day after the day this Act receives Royal Assent and apply to corporations in respect of all taxation years ending after the day this Act receives Royal Assent, except that with respect to a taxation year ending after the day this Act receives Royal Assent and which includes the day this Act receives Royal Assent, the following rules apply: Idem

- (a) determine the amount of tax payable under Part II of the said Act as that Part stood on the day this Act receives Royal Assent on the assumption that that

Part as it then stood was applicable for the taxation year;

- (b) determine the proportion of the amount determined under clause (a) that the number of days of the taxation year occurring on or before the day this Act receives Royal Assent bears to the total number of days in the taxation year;
- (c) determine the amount of tax payable under Part II of the said Act on the assumption that no portion of the taxation year was on or before the day this Act receives Royal Assent;
- (d) determine the proportion of the amount determined under clause (c) that the number of days of the taxation year that are after the day this Act receives Royal Assent bears to the total number of days in the taxation year; and
- (e) determine the aggregate of the amounts determined under clauses (b) and (d) in respect of the corporation,

and the aggregate determined under clause (e) is the amount payable by the corporation under Part II of the said Act for the taxation year.

Idem

(8) Subsection 12 (16) of the said Act, as enacted by subsection 6 (3) of this Act, shall be deemed to have come into force on the day after the day this Act receives Royal Assent and applies to corporations in respect of taxation years ending after the day this Act receives Royal Assent, except that in computing the income of a corporation for a taxation year that includes the day this Act receives Royal Assent, there may be deducted an amount equal to that portion of the amount that would have been deductible for the taxation year, if paragraph 20 (1) (gg) of the *Income Tax Act* (Canada) had still been applicable for the purposes of computing income for the taxation year, that the number of days in the taxation year before the day subsection 12 (16) of the said Act comes into force bears to 365.

R.S.C. 1952,
c. 148

Idem

(9) Section 7 and the reference to paragraph 87 (2) (y.1) of the *Income Tax Act* (Canada) added to subsections 23 (3) and (4) of the said Act by subsections 8 (1) and (2) of this Act shall be deemed to have come into force on the 1st day of January, 1983, and apply to corporations in respect of all taxation years ending after the 31st day of December, 1982.

(10) The reference to paragraph 88 (1) (e.7) of the *Income Tax Act* (Canada) added to subsection 23 (3) of the said Act, as re-enacted by subsection 8 (1) of this Act, and the removal of the reference to paragraph 87 (2) (z) of the *Income Tax Act* (Canada) in subsection 23 (4) of the said Act, as amended by subsection 8 (2) of this Act, shall be deemed to have come into force on the 1st day of January, 1984, and apply to corporations in respect of all taxation years ending after the 31st day of December, 1983. Idem

(11) The references to paragraphs 87 (2) (cc) of the *Income Tax Act* (Canada) added to subsections 23 (3) and (4) of the said Act by subsections 8 (1) and (2) of this Act, and section 20 come into force on the day this Act receives Royal Assent. Idem
R.S.C. 1952,
c. 148

(12) Subsection 8 (3) and section 10 are deemed to have come into force on the 16th day of February, 1984, and apply in respect to elections filed or amended by corporations after the 15th day of February, 1984. Idem

(13) Section 9 shall be deemed to have come into force on the 1st day of January, 1985 and applies, Idem

(a) after 1985, in the case of an interest in an offshore investment fund property held by a corporation on the 15th day of February, 1984, or a property substituted therefor pursuant to an arrangement that existed on that date, and the reference in subparagraphs 94.1 (2) (a) (ii) and (iv) of the *Income Tax Act* (Canada) to "1984" shall be read as a reference to "1985"; and

(b) in any other case after 1984.

(14) Section 11, subsection 31 (3) and the re-enactment of clauses 70 (9) (a) and (b) and enactment of clause 70 (9) (ba) of the said Act by subsection 31 (4) of this Act shall be deemed to have come into force on the 14th day of May, 1982, with respect to taxation years of corporations ending after the 13th day of May, 1982, where a deduction from tax for any year under clause 33 (1) (b) of the said Act has been claimed, and shall be deemed to have come into force on the 14th day of May, 1985, with respect to taxation years ending after the 13th day of May, 1985, where no deduction from tax for any year has been claimed under clause 33 (1) (b) of the said Act but a deduction from tax has been claimed under subsection 33a (1) of the said Act for any taxation year, except that the words added by clause 11 (a) of this Act to subsection 27 (5) of the said Act do not apply with respect to a taxation year if the tax- Idem

ation year ends prior to 1983 and the unapplied loss is determined for a taxation year ending prior to 1983.

- Idem** (15) Subsection 33 (2) of the said Act, as re-enacted by subsection 16 (2) of this Act, as it applies for the purposes of subsection 33a (1) of the said Act, subsection 33 (2d) of the said Act, as enacted by subsection 16 (6) of this Act, as it applies for the purposes of section 33a of the said Act, subsection 33a (1) of the said Act, as re-enacted by subsection 17 (1) of this Act, except with respect to the substitution of "15.5 per cent" for "15 per cent", and subsections 17 (2), (3) and (4) shall be deemed to have come into force on the 14th day of May, 1985, and apply to taxation years of corporations ending after the 13th day of May, 1985.
- Idem** (16) Subsection 16 (5) shall be deemed to have come into force on the 16th day of May, 1984, and applies with respect to taxation years of corporations ending after the 15th day of May, 1984.
- Idem** (17) Subsection 40 (2) of the said Act, as re-enacted by subsection 19 (1) of this Act, except for the change in percentage in clause 40 (2) (b) of the said Act to "7.75 per cent" from "7.5 per cent", shall be deemed to have come into force on the 20th day of April, 1983.
- Idem** (18) In the application of subsection 19 (3) for the purposes of computing the "refundable capital gains tax on hand" of mutual fund corporations for the purposes of subsections 40 (5) and (6) of the said Act, the percentage referred to in clauses (A) and (B) of subparagraph 131 (6) (d) (i) of the *Income Tax Act* (Canada) shall, with respect to a taxation year that ends the day after the day this Act receives Royal Assent and that includes that day, be read as 15 per cent plus that proportion of 1/2 of 1 per cent that the number of days of that taxation year after the day this Act receives Royal Assent is of the total number of days in the taxation year.
- R.S.C. 1952,**
c. 148
- Idem** (19) Subsection 24 (1) and the inclusion of a reference to subsection 54 (3a) in subsection 54 (4) of the said Act, as added by subsection 24 (2) of this Act, 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** (20) Section 30, subsections 32 (2) and 34 (2) and section 35 come into force on the 1st day of April, 1986.
- Idem** (21) Subsection 33 (2) is applicable with respect to notices of revocation of waiver under the said Act and copies of notices of

revocation of waiver under the *Income Tax Act (Canada)* filed with the Minister after the 15th day of February, 1984. R.S.C. 1952, c. 148

37. The short title of this Act is the *Corporations Tax Amendment Act, 1985*. Short title

