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c 40 Income Tax Amendment Act, 1986

Ontario

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CHAPTER 40

An Act to amend the Income Tax Act*Assented to November 4th, 1986*

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

1. Section 2b of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1985, chapter 12, section 1, is repealed and the following substituted therefor:

2b. Every individual shall, in addition to the amount of tax otherwise payable by such taxpayer under this Act, pay an additional income tax in respect of the 1986 and subsequent taxation years equal to 3 per cent of the amount, if any, by which the tax that would, but for section 120.1 of the Federal Act, be otherwise payable for the taxation year under this Act, before any deduction authorized under subsection 3 (8) or section 7, exceeds \$5,000. Surcharge

2. Subclause 3 (8) (b) (ii) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 50, section 2, is further amended by striking out "paragraph 110 (1) (f) or" in the amendment of 1984 and inserting in lieu thereof "paragraph 110 (1) (d) or (f) or".

3. Subsection 7 (13) of the said Act is amended by striking out "four" in the eighteenth line and inserting in lieu thereof "three".

4. Subsection 8 (1) of the said Act is amended by inserting after "Act" in the second line "or would be payable but for the application of section 127.3 of the Federal Act in the calculation of tax payable under the Federal Act,".

5.—(1) Subclause 10 (4) (a) (ii) of the said Act is amended by striking out "four" in the second line and inserting in lieu thereof "three".

(2) Clause 10 (4) (b) of the said Act is amended by striking out "four" in the first line and inserting in lieu thereof "three".

(3) Section 10 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 46, section 4 and 1985, chapter 12, section 4, is further amended by adding thereto the following subsection:

Idem

(4a) Notwithstanding subsection (4), where the Provincial Minister is entitled to reassess, make an additional assessment or assess tax, interest or penalties by virtue only of the filing of a waiver under subclause (4) (a) (ii), no assessment, reassessment or additional assessment shall be made after the day that is six months after the date on which a notice of revocation of the waiver in prescribed form under the Federal Act is filed.

(4) Subsection 10 (5) of the said Act is amended by striking out "four" in the fifth line and in the eighth line and inserting in lieu thereof in each instance "three".

(5) Subsection 10 (6) of the said Act is amended by striking out "four" in the second line and inserting in lieu thereof "three".

6. Section 16 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 50, section 6 and 1985, chapter 12, section 8, is further amended by adding thereto the following subsection:

Interest
not assessed

(2a) Where the aggregate of all amounts each of which is an amount of interest payable by a taxpayer under subsection (2) of this Act or under subsection 161 (2) of the Federal Act does not exceed \$25 for a taxation year, the Provincial Minister shall not assess such interest.

7.—(1) Subsection 19 (1) of the said Act is amended by,

- (a) striking out "four" in the second line and inserting in lieu thereof "three";
- (b) striking out "upon" in the first line of clause (a) and inserting in lieu thereof "on or after"; and
- (c) striking out "four" in the third line of clause (b) and inserting in lieu thereof "three".

(2) Subsection 19 (2) of the said Act is amended by,

- (a) inserting after "refund" in the first line "or repayment"; and
- (b) striking out "overpayment" in the fifth line and inserting in lieu thereof "refund or repayment".

(3) Section 19 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 12, section 9, is further amended by adding thereto the following subsection:

(4a) Where the Supreme Court of Ontario or the Supreme Court of Canada has, on the disposition of an appeal in respect of taxes, interest or a penalty under this Act by a taxpayer resident in Canada, ^{Idem}

- (a) referred an assessment back to the Provincial Minister for reconsideration and reassessment;
- (b) varied or vacated an assessment; or
- (c) ordered the Provincial Minister to repay tax, interest or penalties,

the Provincial Minister shall with all due dispatch, whether or not an appeal from the decision of the Court has been or may be instituted,

- (d) where the assessment has been referred back to the Provincial Minister, reconsider the assessment and make a reassessment in accordance with the decision of the Court, unless otherwise directed in writing by the taxpayer;
- (e) refund any overpayment resulting from the variation, vacating or reassessment; and
- (f) where clause (c) is applicable, repay any tax, interest or penalties as ordered,

and the Provincial Minister may repay any tax, interest or penalties or surrender any security accepted therefor by the Provincial Minister to any other taxpayer who has filed an objection or instituted an appeal if, having regard to the reasons given on the disposition of the appeal, the Provincial Minister is satisfied that it would be just and equitable to do so, but for greater certainty, the Provincial Minister may, in accordance with the provisions of this Act, the *Courts of Justice Act, 1984* or the *Supreme Court Act (Canada)*, as they relate to appeals from decisions of the Supreme Court of Ontario, appeal from the decision of the Court notwithstand-

ing any variation or vacating of any assessment by the Court or any reassessment made by the Provincial Minister under clause (d), and any such appeal from a decision of the Supreme Court of Ontario shall proceed as if it were an appeal from the assessment that was referred back, varied or vacated.

8. Subsection 20 (5) of the said Act is amended by striking out “four” in the third line and inserting in lieu thereof “three”.

9. Clause 21 (1) (b) of the said Act is amended by striking out “180” in the first line and inserting in lieu thereof “ninety”.

10. Subsection 27 (3) of the said Act is repealed and the following substituted therefor:

Security
for taxes

(3) The Provincial Minister may, if he or she considers it advisable in a particular case, accept security in any form the Provincial Minister considers appropriate for payment of any amount that is or may become payable under this Act.

Surrender
of security

(3a) Where at any time a taxpayer requests in writing that the Provincial Minister surrender any security accepted under subsection (3), the Provincial Minister shall surrender the security to the extent that the amount thereof exceeds the amount for which the security was accepted that is payable at that time.

11. Subsection 36 (6) of the said Act is amended by striking out “thereon” in the eleventh line and inserting in lieu thereof “on the amount that should have been deducted or withheld”.

Commence-
ment and
application

12.—(1) This Act, except sections 1 to 11, comes into force on the day it receives Royal Assent.

Idem

(2) Section 1 shall be deemed to have come into force on the 1st day of January, 1986.

Idem

(3) Sections 2 and 6 shall be deemed to have come into force on the 1st day of January, 1984, and apply with respect to the 1984 and subsequent taxation years.

Idem

(4) Sections 3 and 4, subsections 5 (1), (2), (4) and (5) and section 8 shall be deemed to have come into force on the 1st day of January, 1983, and apply with respect to the 1983 and subsequent taxation years.

(5) Subsection 5 (3) shall be deemed to have come into force ^{Idem} on the 16th day of February, 1984, and applies after the 15th day of February, 1984, except that in the application of subsection 10 (4a) of the said Act to a waiver filed before the 16th day of February, 1984, that is revoked by a notice of revocation filed before 1986, the reference therein to "six months" shall be read as a reference to "one year".

(6) Subsection 7 (1) shall be deemed to have come into force ^{Idem} on the 1st day of January, 1983, and applies with respect to refunds for the 1983 and subsequent taxation years.

(7) Subsections 7 (2) and (3) and sections 10 and 11 shall be ^{Idem} deemed to have come into force on the 16th day of February, 1984.

(8) Section 9 comes into force on the day after the day this ^{Idem} Act receives Royal Assent, and applies to notices of objection served after the day this Act receives Royal Assent.

13. The short title of this Act is the *Income Tax Amendment* ^{Short title} *Act, 1986.*

