

1973

# c 21 The Income Tax Amendment Act, 1973 (No. 1)

Ontario

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## CHAPTER 21

**An Act to amend  
The Income Tax Act**

*Assented to April 27th, 1973  
Session Prorogued March 5th, 1974*

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

1. Section 3 of *The Income Tax Act*, being chapter 217 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 1, section 3, 1972, chapter 100, section 2 and 1972, chapter 146, section 1, is further amended by adding thereto the following subsections:

(8) Where an amount is to be refunded to a trust in respect of a taxation year pursuant to section 132 of the Federal Act, the Minister shall, subject to subsection 9, at such time and in such manner as is provided for in section 132 of the Federal Act, refund to the trust an amount (in this section referred to as its "capital gains refund" for the year) equal to that proportion of the amount of the refund for the year calculated under subsection 1 of section 132 of the Federal Act that,

- (a) the percentage obtained by multiplying the percentage referred to in subsection 3 for the year times the percentage referred to in paragraph *a* of subsection 3 of section 122 of the Federal Act for the year

is of

- (b) the percentage referred to in subparagraph *i* of paragraph *b* of subsection 4 of section 132 of the Federal Act for the year.

(9) For the purpose of computing the capital gains refund under subsection 8 for a trust in respect of a taxation year, where the trust had income earned in the taxation year outside Ontario, the refund shall be that proportion of the

capital gains refund for the year otherwise determined under subsection 8 that the trust's income earned in the taxation year in Ontario is of its income for the year.

Application  
to other  
liability

(10) Instead of making a refund that might otherwise be made under subsection 8, the Minister may, where the trust is liable or about to become liable to make any payment under this Act, apply to that other liability the amount that would otherwise be refunded, and he shall notify the trust of that action.

s. 6b (1)(d),  
re-enacted

- 2.—(1) Clause *d* of subsection 1 of section 6*b* of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 146, section 2, is repealed and the following substituted therefor:

(*d*) "occupancy cost" means,

(i) municipal tax paid in the taxation year by a principal taxpayer, by his spouse, or by a trustee under a trust of which the principal taxpayer or his spouse is a beneficiary, in respect of a principal residence of the principal taxpayer, or

(ii) 20 per cent of the rent paid in the taxation year by a principal taxpayer, by his spouse, or by a trustee under a trust of which the principal taxpayer or his spouse is a beneficiary, for occupation of a principal residence of the principal taxpayer if such rent has been calculated to exclude all payments on account of meals or board and all payments of rent for occupation prior to the 1st day of January, 1972, but the foregoing provisions of this subclause do not apply to any principal taxpayer if he or his spouse or a trustee for either of them, as the case may be, while paying rent for the principal residence of the principal taxpayer, was also liable to pay municipal tax thereon by reason of any agreement with the lessor of the principal residence or for any other reason.

s. 6b (1)(e),  
amended

- (2) Clause *e* of subsection 1 of the said section 6*b* is amended by striking out "that is either owned by or rented to the principal taxpayer or his spouse, and" in the second and third lines.

s. 6b (1)(f),  
re-enacted

- (3) Clause *f* of subsection 1 of the said section 6*b* is repealed and the following substituted therefor:

(f) "principal taxpayer" means an individual who, on the last day of the taxation year, occupies and inhabits a principal residence except when that individual, on the last day of the taxation year, occupies and inhabits a principal residence with his spouse, in which case "principal taxpayer" means that spouse who has the higher taxable income for the taxation year, but "principal taxpayer" does not include any individual who on the last day of the taxation year was,

(i) under the age of sixteen years,

(ii) under the age of twenty-one years and residing in the principal residence of a principal taxpayer who claims such individual as a dependant in that taxation year, or

(iii) entitled to claim the exemption from tax granted in paragraph *a* or *b* of subsection 1 of section 149 of the Federal Act.

(4) Subsection 5 of the said section 6*b* is repealed and the <sup>s. 6*b* (5),</sup> following substituted therefor: <sub>re-enacted</sub>

(5) The amount by which the deduction to which a principal taxpayer is entitled under subsection 2 exceeds his tax payable under this Act for the taxation year calculated without reference to this section may be applied by the Treasurer to pay any, <sup>Application of refund</sup>

(a) tax, interest or penalty owing by the principal taxpayer for that or any prior taxation year under this Act, the income tax statute of any agreeing province, or the Federal Act; and

(b) contribution, penalty or interest owing by the principal taxpayer for that or any prior taxation year as a result of payments required from him under the *Canada Pension Plan Act* (Canada); and <sup>R.S.C. 1970,</sup> <sub>c. C-5</sub>

(c) premium, interest or penalty owing by the principal taxpayer for that or any prior taxation year under the *Unemployment Insurance Act, 1971* (Canada), <sup>1970-71-72,</sup> <sub>c. 48 (Can.)</sub>

and the part of the amount not so applied shall be paid to the principal taxpayer.

(5) Subsection 7 of the said section 6*b* is repealed and the <sup>s. 6*b* (7),</sup> following substituted therefor: <sub>re-enacted</sub>

Joint  
occupation  
of principal  
residence

(7) Where two or more principal taxpayers together occupy and inhabit the same principal residence in the taxation year, the occupancy cost thereof may be allocated to each such principal taxpayer according to his beneficial interest in the principal residence or according to the portion of the rent for the principal residence that was paid by or on behalf of each principal taxpayer in the taxation year, as the case may be.

Commence-  
ment

3. This Act comes into force on the day it receives Royal Assent and applies with respect to the 1972 and subsequent taxation years.

Short title

4. This Act may be cited as *The Income Tax Amendment Act, 1973*.