

1972

c 146 The Income Tax Amendment Act, 1972 (No. 2)

Ontario

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CHAPTER 146

An Act to amend The Income Tax Act

*Assented to December 15th, 1972
Session Prorogued December 15th, 1972*

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

1.—(1) Clause *h* of subsection 3 of section 3 of *The Income Tax Act*, being chapter 217 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 1, section 3, is repealed and the following substituted therefor:

s. 3 (3) (*h*),
re-enacted

(*h*) 30.5 per cent in respect of the 1972 and 1973 taxation years.

(2) Subsection 7 of the said section 3, as enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 1, section 3, is repealed and the following substituted therefor:

s. 3 (7),
re-enacted

(7) For the purposes of subsection 6,

Definitions

- (a) the non-business-income tax paid by an individual to the government of a country other than Canada in respect of his income for a year is the non-business-income tax paid by him to the government of that country in respect of that year as computed under clause *c* of subsection 7 of section 126 of the Federal Act for the purposes of that Act; and
- (b) the expressions "tax payable by him under this Act" and "tax otherwise payable under this Act" refer to the tax calculated under this Act without the deduction authorized by subsection 2 of section 66.

2. Section 66 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 100, section 4, is repealed and the following substituted therefor:

s. 66,
re-enacted

Interpre-
tation

6b.—(1) In this section,

- (a) "housing unit" includes any premises that an individual ordinarily occupies and inhabits as his residence in the taxation year, but does not include any premises that are part of any charitable institution, home for special care, home for the aged, private nursing home or public nursing home that is prescribed in the regulations;
- (b) "individual" does not include a trust or estate as defined in subsection 1 of section 104 of the Federal Act;
- (c) "municipal tax" means,
 - (i) taxes for municipal and school purposes levied in respect of real property in Ontario that is assessed as residential or farm property,
 - (ii) taxes levied for local improvements to real property in Ontario,
 - (iii) taxes levied under *The Provincial Land Tax Act* or *The Local Roads Boards Act*, and
 - (iv) such other taxes or special rates as are prescribed in the regulations,

but "municipal tax" does not include any tax or rate that was payable prior to the 1st day of January, 1972;

- (d) "occupancy cost" means,
 - (i) municipal tax paid in the taxation year by a principal taxpayer or by his spouse 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 or by his spouse 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 to exclude all pay-

ments of rent for occupation prior to the 1st day of January, 1972, but this subclause does not apply to any principal taxpayer if he or his spouse, while paying rent for his principal residence, 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;

- (e) "principal residence" means a housing unit in Ontario that is either owned by or rented to the principal taxpayer or his spouse, and that was during the taxation year occupied by the principal taxpayer as his principal residence, and that is designated by the principal taxpayer in prescribed manner as a principal residence of his in the taxation year;
 - (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 under the age of 16 years on the last day of the taxation year, or any individual under the age of 21 years on the last day of the taxation year who resides in a principal residence of and is claimed as a dependant by another taxpayer in that taxation year.
- (2) A principal taxpayer may deduct from the tax^{Property tax credit} otherwise payable by him under this Act for the taxation year an amount equal to the least of,
- (a) where his occupancy cost is \$90 or more in the taxation year, the aggregate of \$90 and 10 per cent of his occupancy cost minus 1 per cent of the taxable income of the principal taxpayer for the taxation year;
 - (b) where his occupancy cost is less than \$90 in the taxation year, his occupancy cost minus 1 per cent of the taxable income of the principal taxpayer in the taxation year; or
 - (c) \$250.

Deemed
occupancy
cost for
students

- (3) Where, during the taxation year, the principal residence of a principal taxpayer who is a full-time student at a college, university or school of nursing is in a students' residence that is prescribed in the regulations, the occupancy cost for every principal taxpayer so resident shall be deemed to be \$25 for that portion of the taxation year during which a prescribed students' residence was the principal residence of the principal taxpayer.

Deceased
taxpayer's
credit

- (4) Where an individual dies in the taxation year having had a principal residence immediately before his death, and he or his spouse has paid any rental or municipal tax in relation to the principal residence, the legal representative of such deceased individual may claim from the tax otherwise payable under this Act for the portion of the taxation year during which the deceased lived the deduction that could have been claimed under subsection 2 in relation to the amount so paid by the deceased or by his spouse as if the deceased taxpayer had been the principal taxpayer in relation to such principal residence.

Refund

- (5) The amount by which the deduction to which a principal taxpayer is entitled under subsection 2 exceeds his tax payable under this Act calculated without reference to this section shall be paid by the Treasurer to the principal taxpayer unless the principal taxpayer is indebted for tax, interest or penalties under this Act or the Federal Act for a prior taxation year, and in such case, the amount shall be applied by the Treasurer to reduce and, if possible, to discharge such indebtedness, and any part of the amount not so applied shall be paid to the principal taxpayer.

Occupancy
cost for
two or more
principal
residences

- (6) Where a principal taxpayer has occupied more than one principal residence in the taxation year, he shall, in calculating his occupancy cost, take into account only that portion of his total occupancy cost in the taxation year for each principal residence that is in the same ratio to his total occupancy cost in the taxation year for that principal residence as the number of days in the taxation year that the principal taxpayer occupied that principal residence is to the number of days for which such occupancy cost was paid for that principal residence, but no

principal taxpayer shall claim occupancy cost for more than one principal residence during the same period of time.

- (7) Where two or more principal taxpayers, either jointly or in common, own or rent a principal residence in the taxation year, the occupancy cost thereof shall be allocated to each such principal taxpayer according to his beneficial ownership of the principal residence or according to the portion of the rent for the principal residence that each principal taxpayer paid in the taxation year, as the case may be. Joint occupation of principal residence
- (8) Where a principal taxpayer, instead of paying full rent for the occupation of a principal residence that he does not own, furnishes work or services to the owner or lessee of the principal taxpayer's principal residence, the value of the benefit that the principal taxpayer receives from paying less than full rent may, for the purposes of determining his occupancy cost, be included by the principal taxpayer as part of the rent that he has paid with respect to the principal residence, but the amount of such benefit may be so included only to the extent that the benefit is included as part of the principal taxpayer's income for that taxation year computed for the purpose of determining the tax payable under Part 1 of the Federal Act by the principal taxpayer. Imputed rent
- (9) Notwithstanding clause *f* of subsection 1, if an individual occupies and inhabits with his spouse a principal residence on the last day of the taxation year, and if that individual and his spouse have the same amount of taxable income in the taxation year or have no taxable income in the taxation year, they may agree between them which of them shall claim the deduction permitted under subsection 2, and the individual thus agreed upon shall be deemed to be the principal taxpayer. Deemed principal taxpayer

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

4. This Act may be cited as *The Income Tax Amendment Act, 1972 (No. 2)*. Short title

