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c 39 Corporations Tax Amendment Act, 1986

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CHAPTER 39

An Act to amend the Corporations 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 1 of the Corporations Tax Act, being chapter 97 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 37, section 1, 1983, chapter 29, section 1, 1984, chapter 29, section 1 and 1985, section 1, is further amended by adding thereto the following subsection:

(7) Where,

(a) a corporation is subject to tax under this Act and under the Income Tax Act (Canada); and

(b) the corporation’s liability for tax under the Income Tax Act (Canada) is subject to and modified by the application of the provisions of a Tax Treaty, Agreement or Convention between Canada and another country,

the provisions of this Act may be modified and applied in the manner prescribed by the regulations for the purpose of giving effect to a provision of such a Treaty, Agreement or Convention for the purposes of this Act.

2.—(1) Clause 12 (8) (a) of the said Act is repealed and the following substituted therefor:

(a) notwithstanding subsection 20 (8) of the Income Tax Act (Canada), the said paragraph (n) does not apply to allow a deduction in computing the income of a corporation for a taxation year from a business in respect of a property sold in the course of the business if,
(i) the corporation at the end of the taxation year
or at any time in the immediately following
taxation year,

(A) was exempt from tax under any provi-
sion of this Part, or

(B) ceased to have a permanent establish-
ment in Canada, or

(ii) the sale occurred more than thirty-six months
before the end of the taxation year; and

(2) 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, 1984, chapter 29, section 2 and
1985, chapter 11, section 6, is further amended by adding
thereto the following subsection:

(17) In the application of subparagraphs 12 (1) (o) (v) and
18 (1) (m) (v) of the Income Tax Act (Canada) for the pur-
poses of this Act, the following rules apply:

1. Clause 12 (1) (o) (v) (B) shall be read as follows:

(B) to any stage that is not beyond the prime
metal stage or its equivalent, of metal or min-
erals (other than petroleum or related hydro-
carbons) from a mineral resource.

2. Clauses 12 (1) (o) (v) (C) and 18 (1) (m) (v) (C) are
not applicable for the purposes of this Act.

3. Clause 18 (1) (m) (v) (B) shall be read as follows:

(B) metal or minerals (other than petroleum or
related hydrocarbons) from a mineral
resource in Canada to any stage that is not
beyond the prime metal stage or its equiva-
 lent.

3.—(1) Subsection 13 (1a) of the said Act, as enacted by the
Statutes of Ontario, 1983, chapter 29, section 3, is repealed.

(2) Subsection 13 (1b) of the said Act, as enacted by the
Statutes of Ontario, 1983, chapter 29, section 3, is repealed
and the following substituted therefor:
(1b) In the application of paragraph 39 (1) (a) of the *Income Tax Act* (Canada) for the purposes of this Act, sub-paragraph 39 (1) (a) (ii.1) is not applicable.

4.—(1) Clause 14 (3) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 4 and amended by the Statutes of Ontario, 1984, chapter 29, section 4, is repealed and the following substituted therefor:

(a) subsection (1) and paragraphs (3.2) (a) and (3.3) (f) of the said section are not applicable; and

(2) Clause 14 (3) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 4, is amended by striking out “subsections (2) and (2.1)” in the first line and inserting in lieu thereof “subsection (2)”.

5.—(1) Subsection 16 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 5, is amended by striking out “to which subsection 59 (1.1) or (3.1) of the said Act applies” in the sixth and seventh lines.

(2) Subsection 16 (1) of the said Act, as amended by subsection (1) of this section, is repealed on the 1st day of January, 1987.

(3) Subsection 16 (1a) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 5, is amended by striking out “to which subsection 59 (1.2) of the said Act applies” in the sixth and seventh lines.

(4) Subsection 16 (1a) of the said Act, as amended by subsection (3) of this section, is repealed on the 1st day of January, 1987.

6.—(1) Sub-subclause 18 (2) (b) (ii) (C) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6, is amended by striking out “or a property referred to in paragraph 59 (1.2) (b) of the *Income Tax Act* (Canada) or subsection 59 (3.1) of that Act” in the third, fourth, fifth and sixth lines.

(2) Sub-subclause 18 (2) (b) (ii) (C) of the said Act, as amended by subsection (1) of this section, is repealed on the 1st day of January, 1987 and the following substituted therefor:

(C) the aggregate of amounts, each of which is an amount in respect of a Canadian
resource property that has been disposed of by it, equal to the amount included in computing its income for the taxation year by virtue of subsection 14 (3) in respect of the disposition of the property,

7.—(1) Clause 25 (3) (a) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 9, is repealed and the following substituted therefor:

(a) subsections 66.1 (1), 66.2 (1) and 66.4 (1) of the Income Tax Act (Canada) shall be deemed to be references to those provisions as made applicable by section 18a of this Act.

(2) Subsection 25 (4) of the said Act is amended by striking out “or (3), as the case may be” in the third line and in the fifth line.

8.—(1) Subsection 27 (1) of the said Act is amended by striking out “deductions” in the fifth line and inserting in lieu thereof “additions and deductions”.

(2) Section 27 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 10, 1984, chapter 29, section 8 and 1985, chapter 11, section 11, is further amended by adding thereto the following subsection:

(7) In the application of section 110.5 and paragraph 111 (8) (b) of the Income Tax Act (Canada) for the purposes of this Act, the amount determined under section 110.5 added to the taxable income of the corporation for the taxation year and to the non-capital loss of the corporation for the taxation year under subparagraph 111 (8) (b) (ii) for the purposes of that Act shall be the amount added to the taxable income and included in the non-capital loss of the corporation for the taxation year for the purposes of this Act.

9.—(1) Subsection 40 (5) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 15 and amended by 1985, chapter 11, section 19, is further amended by adding at the commencement thereof “Subject to subsection (5a)”.

(2) Section 40 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 15 and 1985, chapter 11,
section 19, is further amended by adding thereto the following subsection:

(5a) In the application of subparagraph 131 (6) (d) (i) of the said Act for the purposes of this Act, the percentage referred to in clauses (A) and (B) thereof shall, with respect to a taxation year ending after the 18th day of December, 1985 but commencing before the 19th day of December, 1985, be read as 15 per cent plus that proportion of 1/2 of 1 per cent that the number of days in the taxation year after the 18th day of December, 1985 is of the total number of days in the taxation year.

(3) Subsection 40 (7) of the said Act is amended by striking out “and paragraph (6) (c) of the said section” in the second line.

10.—(1) Subsection 43 (4) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 21, is amended by adding at the commencement thereof “Subject to subsection (6)”.

(2) Section 43 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 21, is further amended by adding thereto the following subsection:

(6) In the application of subsection (4), where the taxation year of a corporation that was, throughout the taxation year, a credit union, ends after the 18th day of December, 1985, but commenced before the 19th day of December, 1985, the deduction from tax permitted under subsection (4) shall not exceed the aggregate of,

(a) that proportion of the amount that would be deductible from tax under subsection (4), if the reference to “5.5 per cent” in the fourth line thereof was read as “5 per cent”, that the number of days in the taxation year before the 19th day of December, 1985 is of the total number of days in the taxation year; and

(b) that proportion of the amount otherwise deductible from tax under subsection (4) that the number of days in the taxation year after the 18th day of December, 1985 is of the total number of days in the taxation year.

11.—(1) Subclause 53 (1) (c) (ii) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 15, is amended by striking out “subsections 13 (1) and (1a)” in
the third and fourth lines and inserting in lieu thereof “subsection 13 (1)”.

(2) Subclause 53 (1) (c) (iii) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 17, is repealed.

(3) Subsection 53 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 10, 1983, chapter 29, section 17 and 1984, chapter 29, section 15, is further amended by striking out “and” at the end of clause (d), by adding “and” at the end of clause (e) and by adding thereto the following clause:

(f) all its indebtedness represented by bankers’ acceptances.

(4) Section 53 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 10, 1982, chapter 19, section 3, 1983, chapter 29, section 17 and 1984, chapter 29, section 15, is further amended by adding thereto the following subsection:

(1a) For the purpose of clause (1) (d), sums or credits advanced or loaned to the corporation include,

(a) accounts payable to a related corporation that have been outstanding for 120 or more days prior to the end of the taxation year; and

(b) accounts payable to a corporation other than a related corporation that have been outstanding for 365 or more days prior to the end of the taxation year.

12.—(1) Clause 54 (1) (c) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 11 and 1983, chapter 29, section 18, is further amended,

(a) by adding at the commencement thereof “subject to subsection 54 (2d)”;

(b) by striking out “shares and bonds” in the fifth line and inserting in lieu thereof “shares, bonds and lien notes”.

(2) Subclause 54 (1) (c) (iv) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 18, is amended by adding at the end thereof “prior to the end of the taxation year”.
(3) Subclause 54 (1) (c) (v) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 11 and amended by the Statutes of Ontario, 1983, chapter 29, section 18, is repealed and the following substituted therefor:

(v) bankers' acceptances are deemed not to be loans and advances to other corporations unless they have been issued for a term of 120 or more days and have been held by the corporation for at least 120 days prior to the end of the taxation year,

(vii) bonds or treasury bills issued by a government are deemed not to be bonds or securities of a government unless they have been issued for a term of 120 or more days and have been held by the corporation for at least 120 days prior to the end of the taxation year,

(viii) loans and advances to other corporations are deemed not to include commercial paper issued by a corporation unless issued for a term of 120 or more days and held by the corporation for at least 120 days prior to the end of the taxation year or, if issued without a specified term, unless held by the corporation for at least 120 days prior to the end of the taxation year,

(ix) accounts receivable by the corporation from a related corporation are deemed not to be loans and advances to other corporations unless they have been outstanding for 120 or more days prior to the end of the taxation year, and

(x) accounts receivable by the corporation from a corporation other than a related corporation are deemed not to be loans and advances to other corporations unless they have been outstanding for 365 or more days prior to the end of the taxation year.

(4) 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, 1984, chapter 29, section 16 and 1985, chapter 11, section 24, is further amended by adding thereto the following subsection:
(2d) Subclauses 54 (1) (c) (iv), (v), (vii) and (viii) do not apply for the purposes of determining the amount under clause 54 (1) (c) deductible by a corporation which is an investment dealer or broker in respect of money market instruments, including treasury bills and bonds issued by a government, bearer deposit notes issued by a bank, commercial paper and bankers’ acceptances, where such instruments are included in the corporation’s inventory of securities at the end of the taxation year being held for sale to its customers and, for the purpose of clause 54 (1) (c), such instruments are deemed to be investments made by the corporation.

(5) Subclause 54 (3) (c) (ii) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 16, is amended by striking out “subsections 13 (1) and (1a)” in the third and fourth lines and inserting in lieu thereof “subsection 13 (1)”.

(6) Subclause 54 (3) (c) (iii) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 18, is repealed.

13.—(1) Clause 61 (4) (b) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 13 and amended by 1983, chapter 29, section 19, is further amended by striking out “as defined in subsection 125 (13) of the Income Tax Act (Canada),” in the second and third lines.

(2) Section 61 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 13, 1983, chapter 29, section 19 and 1984, chapter 29, section 17, is further amended by adding thereto the following subsection:

(7) For the purposes of this section, a partnership of which a corporation was a member in a taxation year (hereinafter referred to as the “first partnership”) is connected with another partnership (hereinafter referred to as the “second partnership”) if,

(a) more than 50 per cent of the total income or loss, as the case may be, of the first partnership for its fiscal periods ending in or coinciding with the taxation year is included in the determination of the income of a particular person or a particular group of persons; and

(b) more than 50 per cent of the total income or loss, as the case may be, of the second partnership for its fiscal periods ending in or coinciding with the taxa-
tion year is included in the determination of the income of,

(i) the particular person,

(ii) the particular group of persons.

(iii) any corporation associated with the particular person or with any member of the particular group of persons,

(iv) any group of corporations each member of which is associated with the particular person or with any member of the particular group of persons, or

(v) any group of persons each member of which is a person or a member of a group of persons described in any of subclauses (i) to (iv).

14. Clause 67 (1a) (e) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 29, is repealed and the following substituted therefor:

(e) it had no taxable income under this Act for the taxation year and the only tax payable by it under this Act for the taxation year is imposed by Part III and does not exceed $100.

15.—(1) Section 1 comes into force on the day after the day this Act receives Royal Assent.

(2) Subsection 2 (1) and subsection 3 (1) come into force on the 1st day of January, 1987, and apply with respect to dispositions made after the 31st day of December, 1986.

(3) Subsections 5 (2) and (4) come into force on the 1st day of January, 1987, and apply with respect to dispositions made after the 31st day of December, 1986.

(4) Subsection 6 (2) comes into force on the 1st day of January, 1987, and applies in respect of taxation years of corporations ending after the 31st day of December, 1986, where a disposition has occurred after the 31st day of December, 1986.

(5) Subsection 2 (2) shall be deemed to have come into force on the 1st day of January, 1985, and applies with respect to amounts payable after the 31st day of December, 1984.
(6) Subsection 3 (2), subsections 4 (1) and (2) and section 7 shall be deemed to have come into force on the 1st day of January, 1985, and apply to corporations with respect to all taxation years commencing after the 31st day of December, 1984.

(7) Subsection 6 (1) shall be deemed to have come into force on the 1st day of January, 1985, and applies to corporations with respect to dispositions occurring in taxation years commencing after the 31st day of December, 1984.

(8) Subsections 5 (1) and (3) shall be deemed to have come into force on the 1st day of January, 1985, and apply with respect to dispositions made by a corporation before the 1st day of January, 1987, in any taxation year of the corporation commencing after the 31st day of December, 1984.

(9) Subsections 9 (1) and (2) and section 10 shall be deemed to have come into force on the 19th day of December, 1985, and apply to corporations in respect of all taxation years ending after the 18th day of December, 1985.

(10) Section 8, subsection 9 (3) and section 13 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.

(11) Subsections 11 (3) and (4) and subsections 12 (1), (2), (3) and (4) come into force on the 1st day of January, 1987, and apply to corporations in respect of all taxation years ending after the 31st day of December, 1986.

(12) Subsections 11 (1) and (2) and subsections 12 (5) and (6) come into force on the 1st day of January, 1987, and apply to corporations in respect of all taxation years ending after the 31st day of December, 1986, with respect to dispositions made after the 31st day of December, 1986.

(13) Section 14 shall be deemed to have come into force on the 1st day of April, 1986, and applies to corporations in respect of all taxation years ending after the 31st day of March, 1986.