1976

c 80 The Corporations Tax Amendment Act, 1976 (No. 3)

Ontario
CHAPTER 80

An Act to amend
The Corporations Tax Act, 1972

Assented to December 16th, 1976

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

1. Section 104 of The Corporations Tax Act, 1972, being chapter 8, 1972, is repealed and the following substituted therefor:

104.—(1) Where a corporation has a permanent establishment in Ontario, and,

(a) the corporation has included in computing its income for the fiscal year,

(i) income that was derived from sources within a jurisdiction outside Canada in the form of dividends, interest, rents or royalties received in the year,

(ii) income that is deemed to have been received in the form of dividends and interest from a jurisdiction outside Canada by virtue of the provisions of subsection 5 of section 148 of the Income Tax Act (Canada), or

(iii) the amount by which,

(A) the aggregate of that part of the corporation's taxable capital gains for the fiscal year from the disposition of property as may reasonably be considered to be income from a source within a jurisdiction outside Canada

exceeds,

(B) the aggregate of such of the corporation's allowable capital losses for the
year from the disposition of property as may reasonably be considered to be a loss from a source within that jurisdiction outside Canada,

hereinafter in this section referred to as "foreign investment income"; or

(b) the corporation, having included in its income for the fiscal year foreign investment income from sources within a jurisdiction outside Canada, also included income from a business carried on by it in that jurisdiction, hereinafter in this section referred to as "foreign business income",

and where,

(c) for the purposes of subsection 2 of section 126 of the Income Tax Act (Canada), such foreign investment income has not been included as part of such foreign business income, and, for the purpose of allocating taxable income to a jurisdiction outside Ontario in accordance with the regulations made under section 103, such foreign investment income has been excluded from the calculation of gross revenue or any part thereof; and

(d) the corporation is entitled to a deduction under section 126 of the Income Tax Act (Canada), hereinafter in this section referred to as "foreign tax credit", with respect to any income or profits tax paid to such jurisdiction on such foreign investment income or on such foreign investment income and foreign business income or is deemed to have been paid as income or profits tax to such jurisdiction by virtue of subsection 5 of section 148 of the Income Tax Act (Canada),

the corporation may deduct from the tax otherwise payable under this Part for the fiscal year an amount equal to the lesser of,

(e) 12 per cent of that part of such foreign investment income that is income that is included in that portion of taxable income that remains after deducting from such taxable income the portions thereof deemed to have been earned in jurisdictions other than Ontario for the purpose of section 103; and
(f) the deficiency, if any, between,

(i) the income or profits tax paid for the fiscal year by the corporation to the jurisdiction outside Canada in respect of the foreign investment income referred to in clause e, and

(ii) the foreign tax credit allowed for the fiscal year in respect of such foreign investment income under subsection 1 of section 126 of the Income Tax Act (Canada).

(2) For greater certainty, where the income of a corporation for a fiscal year is in whole or in part from sources in more than one jurisdiction outside Canada, subsection 1 shall be read as providing for a separate deduction in respect of each jurisdiction outside Canada.

2. This Act shall be deemed to have come into force on the 1st day of January, 1976 and applies to corporations in respect of all fiscal years ending after the 31st day of December, 1975.

3. This Act may be cited as The Corporations Tax Amendment Act, 1976 (No. 3).