1972

c 100 The Income Tax Amendment Act, 1972 (No. 1)

Ontario

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CHAPTER 100

An Act to amend The Income Tax Act

Assented to June 30th, 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. Paragraph 15 of subsection 1 of section 1 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Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 1, section 1, is repealed and the following substituted therefor:

15. "individual" means a person other than a corporation, and includes a trust or estate as defined in subsection 1 of section 104 of the Federal Act.

2. Clause a of subsection 4 of section 3 of the said Act, as re-enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 1, section 3, is repealed and the following substituted therefor:

(a) "tax payable under the Federal Act" means the amount that, but for section 120 of the Federal Act, would be the tax payable by a taxpayer under Part I of that Act for the taxation year in respect of which the expression is being applied computed as if the taxpayer were not entitled to any deduction under section 126 or 127 of that Act.

3. Subsection 6 of section 5 of the said Act, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 1, section 5, is repealed and the following substituted therefor:

(6) Where an election for a year of averaging filed under subsection 1 of section 119 of the Federal Act has been revoked by the taxpayer in accordance with subsection 5 of section 119 of the Federal Act, subsection 1 of this section is not applicable in determining the tax payable under this Part for the year of averaging.
4. The said Act is amended by adding thereto the following section:

6b.—(1) In this section,

(a) "housing unit" includes any premises ordinarily occupied or inhabited as a residence by the taxpayer in a taxation year, but does not include premises occupied or inhabited by a taxpayer in a private or public nursing home, charitable institutions, homes for the aged or homes for special care, which are prescribed by regulation, or premises which have not been designated by the taxpayer to be his principal residence;

(b) "municipal tax" means taxes imposed in Ontario for municipal and school purposes in respect of real property assessed as residential or farm property and includes local improvement and other special rates;

(c) "occupancy cost" means,

(i) where municipal tax is paid in the taxation year by a principal taxpayer or his spouse in respect of the principal residence, the municipal tax so paid in the taxation year, and

(ii) where a rental or other payment is paid in Ontario by the principal taxpayer or his spouse in respect of the principal residence in Ontario, 20 per cent of the rental or other payment, excluding any payment made on account of meals or board, so paid in the taxation year,

but, where municipal tax and rental or other payment is paid with respect to the same principal residence, means the municipal tax so paid;

(d) "principal residence" means a housing unit, either owned or rented by the taxpayer or by his spouse, ordinarily occupied by the taxpayer in Ontario in the taxation year, and designated by him in prescribed manner to be his principal residence in the taxation year;
(e) "principal taxpayer" means a taxpayer who occupies or inhabits a principal residence in Ontario on the last day of the taxation year, or when a taxpayer occupies or inhabits a principal residence with his spouse, means that spouse who has the higher taxable income in the taxation year, but "principal taxpayer" does not include any person under the age of 16 years on the last day of the taxation year or any person under the age of 21 years on the last day of the taxation year who resides in the principal residence of and is claimed as a dependant by another taxpayer in that taxation year.

(2) There may be deducted from the tax otherwise payable under this Act for the taxation year by an individual resident in Ontario on the last day of the taxation year who is a principal taxpayer in the taxation year, an amount, calculated in respect of occupancy costs of the principal residence, which amount is equal to the least of,

(a) if the occupancy cost is $90 or more in the taxation year, the aggregate of $90 and 10 per cent of the occupancy cost minus 1 per cent of the taxable income of the principal taxpayer;

(b) if the occupancy cost is less than $90 in the taxation year, the occupancy cost minus 1 per cent of the taxable income of the principal taxpayer; or

(c) $250.

(3) Where the principal residence of a principal taxpayer who is a full-time student during a taxation year is in a residence of a college or of a university designated by the Lieutenant Governor in Council for purposes of section 304 of The Municipal Act, and if the municipality in which the college or university is situate receives a grant from Ontario in lieu of municipal taxes, for the purposes of this section, the occupancy cost of such principal taxpayer in such residence shall be deemed to be $25 for the period in the taxation year during which the principal taxpayer was so resident.

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

5. Subsection 4a of section 9 of the said Act, as enacted by the Statutes of Ontario, 1971 (2nd Session) chapter 1, section 9, is repealed and the following substituted therefor:

(4a) Notwithstanding subsection 4, there shall not be included in computing the income of a taxpayer, for the purposes of any reassessment, additional assessment or assessment of tax, interest or penalties that is made after the expiration of four years from the day referred to in subclause ii of clause a of subsection 4, any amount that was not included in computing his income for the purposes of an assessment of tax made before the expiration of four years from that day, and,

(a) in respect of which the taxpayer establishes that the failure so to include it did not result from any misrepresentation that is attributable to neglect, carelessness or willful default or from any fraud in filing a return of his income or in supplying any information under this Act; or

(b) that the taxpayer establishes cannot reasonably be regarded as relating to a matter specified in a waiver filed by the taxpayer with the Provincial Minister, in the form and within the time referred to in subsection 4, with respect to a taxation year to which the reassessment, additional assessment or assessment of tax, interest or penalties, as the case may be, relates.

6. Subsection 8 of section 34 of the said Act, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 1, section 21, is repealed and the following substituted therefor:

(8) The Provincial Minister may assess any person for any amount that has been deducted or withheld by that person under this Act or a regulation or that is payable by that person under this section and, upon his sending a notice of assessment to that person, Divisions I and J of Part I of the Federal Act are applicable mutatis mutandis.
7. This Act comes into force on the day it receives Royal Assent and applies with respect to the 1972 and subsequent taxation years.

8. This Act may be cited as The Income Tax Amendment Act, 1972.