

1990  
CHAPTER 18

An Act to amend The Income Tax Act

(Assented to June 22, 1990)

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

Short title1 This Act may be cited as The Income Tax Amendment Act, 1990.

R.S.S. 1978, c.I-2 amended

2 The Income Tax Act is amended in the manner set forth in this Act.

Section 3 amended3(1) Subsection 3(5) is amended:

(a) by repealing clause (a) and substituting the following:

"(a) the amount, if any, by which any non-business-income tax paid by the individual for the year to the government of that other country exceeds the total of all amounts claimed by the individual as deductions for that taxation year pursuant to subsection 126(1) or 180.1(1.1) of the Federal Act";

(b) by striking out the portion of subclause (b)(i) that precedes paragraph (A) and substituting the following:

"(i) the total of the taxpayer's incomes from sources in that country, excluding any portion of the taxpayer's income that was deductible by the taxpayer for the year pursuant to subparagraph 110(1)(f)(i) of the Federal Act or with respect to which an amount was deductible by the taxpayer pursuant to section 110.6 of the Federal Act"; and

(c) by striking out the portion of subclause (b)(ii) that follows paragraph (B) and substituting the following:

"minus any amounts deducted by the taxpayer pursuant to section 110.6 or paragraph 111(1)(b) of the Federal Act or deductible by the taxpayer pursuant to paragraph 110(1)(d), (d.1), (d.2), (d.3), (f) or (j) of the Federal Act or section 112 of that Act for the year or with respect to the period or periods mentioned in paragraph (B), as the case may be".

(2) The following subsection is added after subsection 3(5):

"(5.01) For the 1985, 1986 and 1987 taxation years, the reference in subclause (5)(b)(ii) to section 110.6 of the Federal Act is to be read as a reference to section 110.1 or section 110.6 of that Act".

(3) Subsection 3(5.1) is repealed and the following substituted:

"(5.1) For the purposes of subsection (5), 'tax payable' and 'tax otherwise payable' means the amount that, but for sections 120.1 and 127.4 of the Federal Act, would be the tax otherwise payable pursuant to this Act".

Section 4 amended<sup>4</sup> Subsection 4(1.1) is amended by striking out the portion that precedes clause (a) and substituting the following:

"(1.1) Notwithstanding subsection (1), paragraphs (1)(f)(ii)(A), (1)(g)(ii)(A), (1)(h)(ii)(B), (1)(h)(ii)(C), (1)(i)(ii)(B) and (1)(i)(ii)(C) do not apply to an individual who:".

Section 6 amended<sup>5</sup> Subsection 6(7) is amended:

(a) by striking out "Notwithstanding subsections (1) and (4)" and substituting "Notwithstanding subsections (1), (4) and (4.1)"; and

(b) by adding "or (4.1)" after "pursuant to subsection (4)".

Section 7.1 amended<sup>6</sup> Subclause 7.1(1)(c)(i) is repealed and the following substituted:

"(i) was incorporated after March 26, 1986 and before April 1, 1992; and".

New sections 11 to 14

<sup>7</sup> Sections 11 to 14 are repealed and the following substituted:

Return"<sup>11</sup> Sections 150 and 151 of the Federal Act apply, with any necessary modification, for the purposes of this Act.

Assessment"<sup>12</sup> Subsections 152(1), (2), (3), (4), (4.1), (5), (6), (7) and (8) of the Federal Act apply, with any necessary modification, for the purposes of this Act.

Withholding"<sup>13</sup> Subsections 153(1), (1.1), (1.2), (1.3), (1.4), (2) and (3) of the Federal Act apply, with any necessary modification, for the purposes of this Act.

Reassessment" 14 Where a collection agreement is in effect, notwithstanding that more than three years have elapsed since the day of mailing of a notice of an original assessment of tax, interest or penalties payable by a taxpayer for a taxation year or of a notification that no tax is payable by the taxpayer for the year, if the tax payable pursuant to Part I of the Federal Act by the taxpayer for the year is reassessed, the Minister of Finance shall:

- (a) reassess;
  - (b) make additional assessments; or
  - (c) assess tax, interest or penalties;
- as the case may require".

Section 15 amended

8 Subsection 15(1) is repealed and the following substituted:

"(1) Every individual whose chief source of income is farming or fishing, other than an individual to whom subsection 153(2) of the Federal Act applies for the purposes of this Act, shall pay to the Minister of Finance:

- (a) on or before December 31 in each taxation year, two-thirds of:
  - (i) the amount estimated by the taxpayer pursuant to section 151 of the Federal Act, as it applies for the purposes of this Act, to be the tax payable pursuant to this Act by the taxpayer for the year, computed without reference to section 127.3 of the Federal Act; or
  - (ii) the tax payable pursuant to this Act by the taxpayer for the immediately preceding taxation year; and
- (b) on or before April 30 in the year next following, the remainder of the tax as estimated pursuant to section 151 of the Federal Act, as it applies for the purposes of this Act".

Section 16 amended

9 Subsection 16(1) is repealed and the following substituted:

"(1) Every individual, other than an individual to whom subsection 153(2) of the Federal Act applies for the purposes of this Act or to whom section 15 applies, shall pay to the Minister of Finance:

- (a) on or before March 15, June 15, September 15 and December 15 in each taxation year, an amount equal to one-quarter of:
  - (i) the amount estimated by the individual pursuant to section 151 of the Federal Act, as it applies for the purposes of this Act, to be the tax payable pursuant to this Act by the individual for the year, computed without reference to section 127.3 of the Federal Act; or
  - (ii) the tax payable pursuant to this Act by the individual for the immediately preceding taxation year; and
- (b) on or before April 30 in the year next following, the remainder of the tax as estimated pursuant to section 151 of the Federal Act, as it applies for the purposes of this Act".

New section 1710 Section 17 is repealed and the following substituted:

Corporations"17(1) Subsections 157(1), (2), (2.1) and (4) of the Federal Act apply, with any necessary modification, for the purposes of this Act.

"(2) Where a collection agreement is in effect, a corporation that:

- (a) pays amounts with respect to a taxation year computed pursuant to subparagraph 157(1)(a)(i), (ii) or (iii) of the Federal Act; and
- (b) is required to make payments pursuant to subsection 157(1) of the Federal Act, as it applies for the purposes of this Act;

shall pay amounts with respect to the year computed pursuant to the same subparagraph of the Federal Act, as it applies for the purposes of this Act".

Section 21 amended11(1) Subsection 21(1) is amended by striking out "subsection 11(1)" and substituting "subsection 150(1) of the Federal Act, as it applies for the purposes of this Act,".

(2) Subsection 21(2) is amended:

- (a) by striking out "subsection 11(1)" in clause (a) and substituting "subsection 150(1) of the Federal Act, as it applies for the purposes of this Act,"; and
- (b) by striking out "subsection 11(2)" in clause (b) and substituting "subsection 150(2) of the Federal Act, as it applies for the purposes of this Act,".

(3) Subsection 21(4) is amended by striking out "subsection 11(3)" and substituting "subsection 150(3) of the Federal Act, as it applies for the purposes of this Act,".

Section 22 amended<sup>12</sup> Section 22 is amended by striking out "section 11" wherever it occurs:

(a) in clause (a); and

(b) in clause (b);

and in each case substituting "section 150 of the Federal Act, as it applies for the purposes of this Act".

New section 25<sup>13</sup> Section 25 is repealed and the following substituted:

Objection to assessment

"<sup>25</sup> Section 165 applies, with any necessary modification, for the purposes of this Act".

Section 26 amended<sup>14</sup> Subsection 26(1) is amended:

(a) by striking out the portion that precedes clause (a) and substituting the following:

"(1) A taxpayer who has served a notice of objection to an assessment pursuant to subsection 165(1) of the Federal Act, as it applies for the purposes of this Act, may appeal to the court to have the assessment vacated or varied after"; and

(b) by striking out the portion that follows clause (b) and substituting the following:

"but no appeal pursuant to this section may be commenced after the expiration of 90 days after the day on which notice is mailed to the taxpayer pursuant to subsection 165(3) of the Federal Act, as it applies for the purposes of this Act, that the Minister of Finance has confirmed the assessment or has reassessed".

Section 28 amended<sup>15</sup> Subsections 28(3) and (4) are repealed.

New section 29<sup>16</sup> Section 29 is repealed and the following substituted:

Proceedings pursuant to Division

"<sup>29</sup> Sections 166, 167 and 171, subsection 178(1) and section 179 of the Federal Act apply, with any necessary modification, for the purposes of this Act".

Section 31 repealed

<sup>17</sup> Section 31 is repealed.

New section 32<sup>18</sup> Section 32 is repealed and the following substituted:

## Administration and enforcement

"32 Sections 220, 224, 225.1 and 225.2 of the Federal Act apply, with any necessary modification, for the purposes of this Act".

New section 3519 Section 35 is repealed and the following substituted:

Certificates"35(1) In this section, 'debtor' means a person who has not paid all or any part of an amount payable pursuant to this Act by that person.

"(2) The Minister of Finance may certify all or any part of an amount that:

(a) is payable pursuant to this Act by a debtor; and

(b) has not been paid;

as an amount payable by the debtor to Her Majesty in right of Saskatchewan.

"(3) On production to the court, a certificate made pursuant to subsection (2) shall be registered in the court and, when registered, the certificate:

(a) is deemed to be a judgment of the court against the debtor for a debt due to Her Majesty in right of Saskatchewan in the amount certified plus interest on that amount to the day of payment as provided by law; and

(b) may be enforced against the debtor by any proceedings that may be taken to enforce a judgment of the court.

"(4) All reasonable costs and charges incurred or paid with respect to:

(a) the registration of a certificate; or

(b) proceedings to enforce a certificate;

pursuant to subsection (3) are recoverable in like manner as if they had been included in the amount certified in the certificate when it was registered.

"(5) Where a collection agreement is in effect, subsections (1) to (4) do not apply, but the Minister of Finance may proceed pursuant to section 223 of the Federal Act for the purpose of collecting any amount payable pursuant to this Act by a taxpayer".

Section 37 repealed<sup>20</sup> Section 37 is repealed.

New section 3821 Section 38 is repealed and the following substituted:

Seizure"38(1) Where a person has failed to pay an amount as required by this Act, the Minister of Finance may give 30 days' notice to the person, by registered mail addressed to the person's latest known address, of the intention of the Minister of Finance to direct that the person's goods and chattels be seized and sold.

"(2) If the person mentioned in subsection (1) fails to make the payment before the expiration of the 30 days, the Minister of Finance may:

- (a) issue a certificate of the failure; and
- (b) direct that the person's goods and chattels that are located in Saskatchewan be seized.

"(3) Subsections 225(2), (3), (4) and (5) of the Federal Act apply, with any necessary modification, for the purposes of this Act".

Section 39 amended22 Subsection 39(2) is amended:

- (a) by striking out "under this section" and substituting "pursuant to this Act"; and
- (b) by striking out "subsections 38(2) to (5) are, thereupon, applicable mutatis mutandis" and substituting "subsections 225(2), (3), (4) and (5) of the Federal Act apply, with any necessary modification, for the purposes of this Act".

Section 40 amended23(1) Subsections 40(1) to (7) are repealed and the following substituted:

Withholding"(1) Subsections 227(1), (2), (3), (4), (5), (8), (8.2), (8.3), (8.4), (8.5), (9), (9.2), (9.4) and (9.5) of the Federal Act apply, with any necessary modification, for the purposes of this Act".

(2) Subsection 40(8) is repealed and the following substituted:

"(8) The Minister of Finance may assess any person for any amount that:

- (a) has been deducted or withheld by that person pursuant to:
  - (i) this Act or the regulations; or
  - (ii) a provision of the Federal Act or the Federal Regulations that applies for the purposes of this Act; or
- (b) is payable by that person pursuant to:
  - (i) subsection 224(4) or (4.1) of the Federal Act, as it applies for the purposes of this Act;

- (ii) subsection 227(8), (8.3), (8.4), (8.5), (9), (9.2), (9.4) or (9.5) of the Federal Act, as it applies for the purposes of this Act; or
  - (iii) section 40.1 or 45 of this Act;
- and, where the minister sends a notice of assessment to that person, sections 11 and 18 to 30 apply, with any necessary modification, for the purposes of this Act".

#### Section 40.1 amended

24 Subsection 40.1(1) is repealed and the following substituted:

"(1) Where a corporation has failed to deduct or withhold an amount as required by subsection 153(1) of the Federal Act, as it applies for the purposes of this Act, or has failed to remit that amount, the directors of the corporation at the time the corporation was required to deduct or withhold the amount or remit the amount are jointly and severally liable, together with the corporation, to pay any amount that the corporation is liable to pay pursuant to this Act with respect to that amount, including any interest or penalties related to that amount".

Section 41 amended<sup>25</sup> Subsections 41(2) and (3) are repealed and the following substituted:

"(2) Subsections 230(2.1), (3), (4), (5), (6), (7) and (8) of the Federal Act apply, with any necessary modification, for the purposes of this Act".

#### New sections 42 to 44

26 Sections 42 to 44 are repealed and the following substituted:

Investigations<sup>42</sup> Sections 231, 231.1, 231.2, 231.3, 231.4 and 231.5 of the Federal Act apply, with any necessary modification, for the purposes of this Act.

#### Seizure and disposal of certain documents where privilege claimed

"43 Section 232 of the Federal Act applies, with any necessary modification, for the purposes of this Act, in the circumstances in which that section applies for the purposes of the Federal Act.

Information returns<sup>44</sup> Section 233 of the Federal Act applies, with any necessary modification, for the purposes of this Act".

#### New sections 46 and 47

27 Sections 46 and 47 are repealed and the following substituted:

#### Execution of documents by corporations

"46 Section 236 of the Federal Act applies, with any necessary modification, for the purposes of this Act.



## Failure to file, failure to comply

"47(1) Every person who fails to file a return as and when required pursuant to this Act or the regulations or pursuant to a provision of the Federal Act or the Federal Regulations, as the provision applies for the purposes of this Act, is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to:

- (a) a fine of not less than \$1,000 and not exceeding \$25,000; or
- (b) both the fine described in clause (a) and imprisonment for a term not exceeding 12 months.

"(2) Every person who contravenes subsection 153(1), 227(5), 230(3), 230(4) or 230(6) or section 231, 231.1, 231.2, 231.3, 231.4, 231.5 or 232 of the Federal Act, as that subsection or section applies for the purposes of this Act, is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to:

- (a) a fine of not less than \$1,000 and not exceeding \$25,000; or
- (b) both the fine described in clause (a) and imprisonment for a term not exceeding 12 months.

"(3) Where a person is convicted of an offence pursuant to subsection (1) or (2), the court may make any order that it considers proper in order to enforce compliance with the provision contravened.

"(4) Where a person is convicted of an offence pursuant to subsection (1) or (2), the person is not liable to a penalty for the same failure pursuant to:

- (a) subsection 227(8), (8.5), (9) or (9.5) of the Federal Act, as that subsection applies for the purposes of this Act; or
- (b) section 21 or 45 of this Act;

unless the person was assessed for that penalty or that penalty was demanded from the person before the information or complaint giving rise to the conviction was laid or made".

Section 48 amended<sup>28</sup> Section 48 is amended:

(a) by adding "or a provision of the Federal Act or the Federal Regulations, as that provision applies for the purposes of this Act" after "regulation" in clause (a); and

(b) by repealing clause (f) and substituting the following:

"(f) a fine of not less than 50% and not more than 200% of the amount of the tax that was sought to be evaded; or".

Section 50 amended<sup>29</sup> Subsection 50(1) is repealed and the following substituted:

"(1) Every person who, while employed in the administration of this Act:

- (a) knowingly communicates, or knowingly allows to be communicated to any person not legally entitled to it, any information obtained by or on behalf of the Minister of Finance for the purposes of this Act;
- (b) knowingly allows any person not legally entitled to it to inspect or to have access to any book, record, writing, return or other document obtained by or on behalf of the Minister of Finance for the purposes of this Act; or
- (c) knowingly uses, other than in the course of the person's duties in connection with the administration or enforcement of this Act, any information obtained by or on behalf of the Minister of Finance for the purposes of this Act;

is guilty of an offence and liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both fine and imprisonment".

Section 53 amended<sup>30</sup>(1) Subsection 53(3) is repealed and the following substituted:

"(3) No prosecution with respect to an alleged offence pursuant to this Act or the regulations or a provision of the Federal Act or the Federal Regulations, as that provision applies for the purposes of this Act, is to be commenced after eight years from the day of the commission of the alleged offence".

(2) Subsection 53(12) is repealed and the following substituted:

"(12) For the purposes of this Act, the day of mailing of any notice or notification described in subsection 152(4) of the Federal Act, as it applies for the purposes of this Act, or of any notice of assessment is presumed to be the date of the notice or notification.

"(12.1) Subject to subsection (12.2), for the purposes of this Act, anything sent by first class mail or its equivalent is deemed to have been received by the person to whom it is sent on the day that it was mailed.

"(12.2) A remittance of an amount deducted or withheld as required by this Act or the regulations or by a provision of the Federal Act or the Federal Regulations, as that provision applies for the purposes of this Act, is deemed to have been remitted on the day it is received by the Minister of Finance".

Section 56 amended<sup>31</sup> Section 56 is amended by striking out "under section 14" and substituting "pursuant to subsection 153(1) of the Federal Act, as it applies for the purposes of this Act,".

Section 58 amended<sup>32</sup> Subsection 58(5) is amended by striking out "under section 14" and substituting "pursuant to subsection 153(1) of the Federal Act, as it applies for the purposes of this Act,".

Section 60 amended<sup>33</sup> Section 60 is amended by adding the following subsections after subsection (7):  
"(8) Where a provision of the Federal Act or the Federal Regulations, with any necessary modification, is made applicable for the purposes of this Act, that provision applies as though it had been enacted as a provision of this Act.

"(9) In applying a provision of the Federal Act or the Federal Regulations for the purposes of this Act, in addition to any other modification that is necessary:

- (a) a reference in the provision to tax under Part I of the Federal Act is to be read as a reference to tax pursuant to this Act;
- (b) if the provision refers to tax under any of Parts I.1 to XIV of the Federal Act, the provision is to be read without reference to:
  - (i) tax under any of those Parts; or
  - (ii) any portion of the provision that applies only with respect to tax under any of those Parts;
- (c) if the provision refers to any of Parts I.1 to XIV of the Federal Act or to a particular provision in any of those Parts, the provision is to be read without reference to:
  - (i) that Part or that particular provision, as the case may be; or
  - (ii) any portion of the provision that applies only because of the application of any of those Parts or any provision in those Parts;
- (d) a reference to a particular provision of the Federal Act that is the same as or similar to a provision of this Act is to be read as a reference to the provision of this Act;
- (e) a reference to a particular provision of the Federal Act that in this Act is stated to apply for the purposes of this Act is to be read as a reference to the particular provision of the Federal Act as it applies for the purposes of this Act;
- (f) if the provision refers to the Bankruptcy Act, it is to be read without reference to that Act;

- (g) a reference to a provision of the Federal Regulations that in this Act is stated to apply for the purposes of this Act is to be read as a reference to the provision of the Federal Regulations as it applies for the purposes of this Act;
- (h) a reference in the provision to a term listed in column 1 of the Schedule is to be read as a reference to the term listed in column 2 of the Schedule opposite the term in column 1".

Schedule added<sup>34</sup> The following Schedule is added after section 63:

"SCHEDULE  
"[Clause 60(9)(h)]

Column 1	Column 2	Her Majesty Saskatchewan	Her Majesty in right of Saskatchewan
Canada	Saskatchewan		
Minister	Minister of Finance		
Receiver General	Minister of Finance		
Deputy Minister of National Revenue for Taxation		Deputy Minister of Finance	
Deputy Attorney General of Canada	Deputy Attorney General for Saskatchewan		
the Tax Court of Canada	Her Majesty's Court of Queen's Bench for <u>Tax Court of Canada Act</u>	Saskatchewan	
the Federal Court of Canada	Her Majesty's Court of Queen's Bench for <u>Federal Court Act</u>	Saskatchewan	
Registrar of the Tax Court of Canada	Registrar of Her Majesty's Court of Queen's Saskatchewan	Bench for	
Registry of the Federal Court	Office of the Registrar of Her Majesty's Saskatchewan".	Court of Queen's Bench for	

Application of certain sections

35(1) Clause 3(1)(a) of this Act applies to taxation years ending on or after January 1, 1986.

(2) Clauses 3(1)(b) and (c), subsections 3(2) and (3) and section 4 of this Act apply to taxation years ending on or after January 1, 1985.

(3) Section 5 of this Act applies to taxation years ending on or after January 1, 1987.

(4) Section 8 of this Act applies to taxation years ending on or after January 1, 1990.

Coming into force<sup>36</sup>(1) Subject to subsections (2) to (6), this Act comes into force on the day of assent.

(2) Clause 3(1)(a) and section 4 of this Act come into force on the day of assent but are retroactive and are deemed to have been in force on and from January 1, 1985.

(3) Clauses 3(1)(b) and (c) and subsections 3(2) and (3) of this Act come into force on the day of assent but are retroactive and are deemed to have been in force on and from January 1, 1984.

(4) Section 5 of this Act comes into force on the day of assent but is retroactive and is deemed to have been in force on and from January 1, 1986.

(5) Section 6 of this Act comes into force on the day of assent but is retroactive and is deemed to have been in force on and from

March 31, 1990.

(6) Section 8 of this Act comes into force on the day of assent but is retroactive and is deemed to have been in force on and from January 1, 1989.