

BILL

No. 149

An Act to amend *The Income Tax Act, 2000*

(Assented to)

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

Short title

1 This Act may be cited as *The Income Tax Amendment Act, 2010*.

S.S. 2000, c. I-2.01 amended

2 *The Income Tax Act, 2000* is amended in the manner set forth in this Act.

New section 64.1

3 **The following section is added after section 64:**

“Mineral processing tax refund

64.1(1) In this section:

- (a) **‘eligible asset’** means depreciable property of an eligible corporation that is included in any of the classes in Schedule II of the federal regulations for capital cost allowance purposes;
- (b) **‘eligible corporation’** means a qualifying corporation that provides evidence satisfactory to the minister to establish:
 - (i) that the corporation directly employs at least 75 full-time employees in Saskatchewan for the taxation year for which a refund is claimed;
 - (ii) that the ratio of the corporation’s taxable income earned in the taxation year in Saskatchewan for which a refund is claimed to the corporation’s total taxable income earned in the taxation year in all provinces is at least 90 per cent; and
 - (iii) any additional conditions that may be prescribed by regulation;
- (c) **‘eligible mineral processing’** means processing at a mineral processing facility located in Saskatchewan of any of the following:
 - (i) ore, other than iron ore, from an eligible mineral resource to any stage that is not beyond the prime metal state or its equivalent;
 - (ii) iron ore from an eligible mineral resource to any stage that is not beyond the pellet stage or its equivalent;
- (d) **‘eligible mineral resource’** means a mineral resource as defined in paragraph (a) or (d) of the definition of “mineral resource” in subsection 248(1) of the federal Act, if the deposit is located in Canada but not located in Saskatchewan;

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(e) **‘qualifying corporation’** means a corporation that provides evidence satisfactory to the minister to establish:

(i) that the corporation’s principal business activity is engaging in eligible mineral processing of ore from an eligible mineral resource that it has acquired at fair market value;

(ii) that the corporation acquired eligible assets for use in Saskatchewan having an initial capital cost equal to at least \$125 million; and

(iii) any additional conditions that may be prescribed by regulation;

(f) **‘refund’** means a mineral processing refund granted by the minister pursuant to this section.

(2) A corporation that intends to apply for a refund must submit to the minister an application on a form acceptable to the minister that provides:

(a) evidence satisfactory to the minister that the corporation is an eligible corporation;

(b) evidence satisfactory to the minister that all tax payable by the corporation pursuant to this Act for each taxation year in which it was an eligible corporation has been paid; and

(c) any other information and records that the minister may require in order to determine the corporation’s eligibility.

(3) An application pursuant to subsection (2) must be made within three years after the first taxation year for which the eligible corporation intends to claim a refund.

(4) Notwithstanding any of the provisions of this section, no refund is payable for a taxation year before 2011.

(5) On receipt of an application pursuant to subsection (2), the minister may:

(a) if the minister is satisfied that the applicant is an eligible corporation and has complied with this section, grant a refund for the taxation year for which a refund is claimed and each of the next four taxation years equal to the amount of the corporation’s refund within the meaning of subsection (6) for each of those taxation years; or

(b) if the minister is satisfied that the corporation is not entitled to a refund, send a written notice of determination to the corporation setting out the determination that the corporation is not entitled to the refund and the reasons for the determination.

(6) The amount of a corporation’s refund for a taxation year is equal to the amount of tax payable and paid by the corporation pursuant to this Act for the taxation year after claiming all deductions and credits to which it is entitled for the taxation year.

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- (7) If, after reviewing the application and all other relevant information and records, the minister grants a refund pursuant to clause (5)(a), the minister shall:
- (a) notify the corporation in writing of the amount of the refund to which the corporation is entitled for the taxation year; and
 - (b) pay to the corporation the amount of the refund, without interest.
- (8) The minister shall initially calculate the amount of the refund payable pursuant to this section to an eligible corporation for a taxation year by reference to the most recent assessment of tax payable by the corporation for the year pursuant to this Act.
- (9) If, after an initial calculation has been made pursuant to subsection (8), the federal minister issues any assessment or reassessment of the amount of tax payable or paid by the corporation for the year pursuant to this Act:
- (a) the corporation must submit to the minister each subsequent notice of assessment or notice of reassessment within three months after the assessment or reassessment; and
 - (b) the minister may make any adjustments to the amount of the corporation's refund determined pursuant to subsection (6) that may be necessary to reflect any subsequent assessment or reassessment issued by the federal minister.
- (10) If the minister acts pursuant to subsection (9), the minister shall:
- (a) pay to the corporation any additional refund to which the corporation is entitled pursuant to this section for the year; or
 - (b) serve a written demand on the corporation for the repayment of the refund or the excess amount of the refund to which the corporation is not entitled for the year.
- (11) If, after a refund pursuant to this section is paid to a corporation, it is subsequently determined that the corporation received a refund to which it was not entitled or received an amount greater than the amount of the refund to which it is entitled or if a written demand is served on the corporation pursuant to clause (10)(b), the corporation shall:
- (a) repay the amount of the refund or the excess amount, as the case may be, to the minister; and
 - (b) pay interest to the minister on the amount of the refund or excess amount, as the case may be, computed pursuant to this Act as if the amount or excess were tax payable pursuant to this Act from the day the amount or excess amount was paid to the corporation to the day it is repaid to the minister.
- (12) Notwithstanding clause (11)(b), interest is not payable by a corporation if the amount of the refund or excess amount as determined pursuant to subsection (11) is the result of the corporation claiming a deduction pursuant to section 111 of the federal Act with respect to a loss for a subsequent taxation year”.

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Section 68 amended

4 Subsection 68(3) is amended by adding “, 64.1” after “sections 61, 61.1”.

Section 124 amended

5(1) The following clauses are added after clause 124(1)(g.1):

“(g.2) for the purposes of subclause 64.1(1)(b)(iii), prescribing any additional conditions that must be established by a qualifying corporation;

“(g.3) for the purposes of subclause 64.1(1)(e)(iii), prescribing any additional conditions that must be established by a corporation”.

(2) The following subsection is added after subsection 124(2.1):

“(2.2) Regulations made pursuant to clauses (1)(g.2) and (g.3) may be made retroactive to a day not earlier than January 1, 2011”.

Coming into force

6(1) Subject to subsection (2), this Act comes into force on January 1, 2011.

(2) If this Act is assented to after January 1, 2011, this Act comes into force on assent but is retroactive and is deemed to have been in force on and from January 1, 2011.