

# BILL

No. 43

## 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, 2012*.

### 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 19.2

3 **The following section is added after section 19.1:**

#### “First-time homebuyers’ credit

19.2(1) Subject to subsections (2), (3) and (4), for the purpose of computing the tax payable pursuant to this Act for a taxation year by an individual who is resident in Saskatchewan on the last day of the taxation year, there may be deducted a first-time homebuyers’ credit in an amount determined in accordance with section 118.05 of the federal Act.

(2) In determining the amount in the calculation pursuant to subsection 118.05(3) of the federal Act for the purposes of subsection (1), the amount in dollars to be used in subsection 118.05(3) of the federal Act is \$10,000 and not the amount specified in that subsection.

(3) In applying the definition of ‘qualifying home’ in subsection 118.05(1) of the federal Act for the purposes of subsection (1):

(a) the references to ‘Canada’ in the definition of ‘qualifying home’ in subsection 146.01(1) of the federal Act, as that definition applies for the purpose of the definition of ‘qualifying home’ in subsection 118.05(1) of the federal Act, are to be read as references to ‘Saskatchewan’;

(b) the reference to ‘January 27, 2009’ is to be read as a reference to ‘December 31, 2011’; and

(c) a ‘qualifying home’ is acquired on the date of sale identified in the agreement for sale of the home or on another date acceptable to the minister.

(4) In applying subsection 118.05(2) of the federal Act for the purposes of subsection (1), the following is to be substituted for subsection 118.05(2) of the federal Act:

“(2) For the purposes of this section, an individual is considered to have acquired a qualifying home only if the individual’s interest in the home is registered with the Land Titles Registry as defined in *The Land Titles Act, 2000*”.

#### **New section 37.1**

##### **4 The following section is added after section 37:**

##### **“Non-refundable graduate tuition tax credit**

**37.1(1)** In this section, ‘**graduate tuition tax credit**’ means the total of an individual’s graduate tuition tax credits for a taxation year determined in accordance with clause 39.1(9)(b).

(2) Subject to subsections (3), (4) and (5), for the 2012 taxation year and each subsequent taxation year, there may be deducted from the tax otherwise payable pursuant to this Act for the taxation year by an individual who is resident in Saskatchewan on the last day of the taxation year an amount equal to the lesser of:

- (a) the individual’s graduate tuition tax credit for the taxation year; and
- (b) the individual’s tax otherwise payable pursuant to this Act for the taxation year.

(3) The amount of the graduate tuition tax credit is required to be deducted in the taxation year for which the credit is allowed to the extent that the individual has tax otherwise payable in that taxation year against which the amount of the credit can be deducted.

(4) No amount may be deducted as a graduate tuition tax credit on a separate return of income filed pursuant to subsection 70(2) or 150(4) or paragraph 104(23)(d) of the federal Act.

(5) The minister may set any procedures that the minister considers appropriate with respect to the manner in which the graduate tuition tax credit is to be claimed”.

#### **Section 39 amended**

##### **5(1) The following clause is added after clause 39(1)(e):**

“(f) ‘**shared-custody parent**’ means, subject to subsection (2.1), a shared-custody parent as defined in section 122.6 of the federal Act”.

##### **(2) The following subsection is added after subsection 39(2):**

“(2.1) In applying the definition of ‘shared-custody parent’ in section 122.6 of the federal Act for the purposes of this section, references to qualified dependant are to be read as references to qualified dependant as defined in this section and not as defined in the federal Act”.

**(3) The following subsection is added after subsection 39(3):**

“(3.1) Notwithstanding the determination of an amount deemed to have been paid by an individual pursuant to the application of subsection (3), if an eligible individual is a shared-custody parent with respect to one or more qualified dependants at the beginning of a month, the amount deemed pursuant to subsection (3) to have been paid during a specified month is equal to the amount determined in accordance with the following formula:

$$\frac{1}{2} \times (A + B)$$

where:

A is the amount calculated in accordance with the formula in subsection (4) without reference to this subsection; and

B is the amount determined in accordance with the formula in subsection (4) calculated without reference to this subsection and calculated as if the individual were an eligible individual who does not have any qualified dependants with respect to whom the individual is a shared-custody parent”.

**New sections 39.1 and 39.11**

**6 Section 39.1 is repealed and the following substituted:**

**“Graduate tuition tax credit**

**39.1(1)** In this section:

(a) **‘eligible individual’**, with respect to a taxation year, means an individual:

(i) who was resident in Saskatchewan on the last day of the taxation year; and

(ii) to whom a graduate retention program eligibility certificate has been issued;

(b) **‘eligible program’** means an eligible program as defined in section 2 of *The Graduate Retention Program Act*;

(c) **‘graduate retention program eligibility certificate’** means a graduate retention program eligibility certificate that is issued to an individual pursuant to section 4 of *The Graduate Retention Program Act* and includes the tuition rebate eligibility certificate mentioned in subsection 4(3) of that Act;

(d) **‘graduate retention program maximum’**, with respect to an eligible program, means the graduate retention program maximum determined pursuant to *The Graduate Retention Program Act* to be applicable to the eligible program;

(e) **‘graduate tuition tax credit’**, for a taxation year with respect to a graduate retention program eligibility certificate, means the amount determined in accordance with subsection (6);

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(f) **‘total eligible tuition amount’**, with respect to a graduate retention program eligibility certificate, means, subject to subsection (5), the lesser of:

(i) the total of the tuition fees:

(A) paid for the enrolment of the individual in eligible programs during any period after December 31, 2004; and

(B) verified by tuition receipts; and

(ii) the graduate retention program maximum applicable to the eligible program from which the individual graduated as set out in the graduate retention program eligibility certificate;

(g) **‘tuition fees’** means, subject to subsection (3), amounts that are eligible to be used to claim a credit pursuant to section 118.5 of the federal Act for a taxation year;

(h) **‘tuition receipt’** means a receipt or other documentation acceptable to the minister that verifies to the satisfaction of the minister the tuition fees paid for the enrolment of an individual in an eligible program during any period after December 31, 2004;

(i) **‘year of graduation’**, with respect to a graduate retention program eligibility certificate, means:

(i) in the case of an individual who graduated from an eligible program in 2006 or 2007 as set out in the graduate retention program eligibility certificate, the 2008 taxation year; and

(ii) in any other case, the taxation year in which an individual graduated from an eligible program as set out in the graduate retention program eligibility certificate.

(2) For the purposes of this section, an individual who dies while resident in Saskatchewan is deemed to be resident in Saskatchewan on the last day of the taxation year in which the individual dies.

(3) For the purposes of clause (1)(g), paragraph 118.5(1)(a) of the federal Act is to be read without reference to subparagraphs (iii) to (v).

(4) Subject to subsection (7), an eligible individual may claim a graduate tuition tax credit for a taxation year in accordance with this section with respect to each graduate retention program eligibility certificate issued to the eligible individual.

(5) An individual who claims an amount of tuition fees pursuant to this section with respect to a graduate retention program eligibility certificate shall not claim that amount with respect to any other graduate retention program eligibility certificate.

(6) An eligible individual’s graduate tuition tax credit for a taxation year with respect to a graduate retention program eligibility certificate is:

(a) for the taxation year that is the year of graduation, 10% of the total eligible tuition amount;

(b) for the first taxation year following the year of graduation, 10% of the total eligible tuition amount;

(c) for the second taxation year following the year of graduation, 10% of the total eligible tuition amount;

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- (d) for the third taxation year following the year of graduation, 10% of the total eligible tuition amount;
  - (e) for the fourth taxation year following the year of graduation, 20% of the total eligible tuition amount;
  - (f) for the fifth taxation year following the year of graduation, 20% of the total eligible tuition amount; and
  - (g) for the sixth taxation year following the year of graduation, 20% of the total eligible tuition amount.
- (7) The total amount of all graduate tuition tax credits to which an individual is entitled pursuant to this section shall not exceed \$20,000 in the individual's lifetime.
- (8) To claim a graduate tuition tax credit with respect to a graduate retention program eligibility certificate, an eligible individual to whom the certificate was issued must file the graduate retention program eligibility certificate with the eligible individual's return of income for the taxation year in which the graduate retention program eligibility certificate was issued.
- (9) If an eligible individual claims a graduate tuition tax credit with respect to one or more graduate retention program eligibility certificates in accordance with this section for a taxation year:
- (a) for each of the 2008, 2009, 2010 and 2011 taxation years, an amount equal to the total of the eligible individual's graduate tuition tax credits for that taxation year is deemed to be an amount paid by the eligible individual on account of the eligible individual's tax payable pursuant to this Act for the taxation year; and
  - (b) for the 2012 taxation year and each subsequent taxation year, an amount equal to the total of the eligible individual's graduate tuition tax credits for that taxation year may be claimed for that taxation year in accordance with sections 37.1 and 39.11.
- (10) An eligible individual who claims a graduate tuition tax credit shall:
- (a) retain all tuition receipts related to the total eligible tuition amount with respect to which the graduate tuition tax credit is claimed until the expiration of six years from the last day of the last taxation year for which a graduate tuition tax credit may be claimed with respect to that total eligible tuition amount; and
  - (b) provide the tuition receipts described in clause (a) to the minister on request.

**“Graduate tuition refund**

**39.11(1)** In this section:

- (a) **‘eligible individual’** means an eligible individual as defined in clause 39.1(1)(a);
- (b) **‘graduate tuition refund’** for a taxation year means a graduate tuition refund determined pursuant to this section;
- (c) **‘graduate tuition tax credit’** means the total of an individual's graduate tuition tax credits for a taxation year determined in accordance with clause 39.1(9)(b).

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(2) For the 2012 taxation year and each subsequent taxation year, an eligible individual may claim a graduate tuition refund that is equal to the positive difference, if any, between:

(a) the amount of the individual's graduate tuition tax credit for the taxation year; and

(b) the amount of the individual's graduate tuition tax credit deducted pursuant to section 37.1 from the individual's tax otherwise payable pursuant to this Act for the taxation year.

(3) If an individual claims a graduate tuition refund in accordance with subsection (2) for a taxation year, an amount equal to the individual's graduate tuition refund for that taxation year is deemed to be an amount paid by the individual on account of the individual's tax payable pursuant to this Act for that taxation year”.

**Section 42 amended**

**7 Clause 42(1)(a) is amended by striking out “sections 18, 21, 22, 24, 25, 27, and 28” and substituting “sections 18, 19.2, 21, 22, 24, 25, 27, and 28”.**

**Section 44 amended**

**8 Subclause 44(1)(b)(i) is amended by striking out “sections 18, 21, 22, 24, 25, 27, and 28” and substituting “sections 18, 19.2, 21, 22, 24, 25, 27, and 28”.**

**Section 45 amended**

**9 Section 45 is amended by striking out “Sections 11 to 18, 22, 25 and 29” and substituting “Sections 11 to 18, 19.2, 22, 25 and 29”.**

**New section 49**

**10 Section 49 is repealed and the following substituted:**

**“Ordering of credits**

**49** In computing an individual's tax payable pursuant to this Act, the following sections must be applied in the following order:

sections 31, 11, 12, 13, 14, 15, 16, 19, 17, 20, 28, 18, 19.2, 23, 26, 24 and 25, subsections 29(3) and 29(1) and sections 22, 19.1, 21, 27 and 32”.

**Section 50 amended**

**11 Section 50 is amended by striking out “sections 18 and 21 to 28” and substituting “sections 18, 19.2 and 21 to 28”.**

**Section 63.1 amended**

**12 Subclause 63.1(1)(a)(i) is amended by adding “and before April 1, 2012” after “March 18, 2009”.**

**New section 63.2****13 The following section is added after section 63.1:****“Refundable and non-refundable research and development tax credits****63.2(1)** In this section:

- (a) **‘amalgamation’** means an amalgamation as defined in subsection 87(1) of the federal Act;
- (b) **‘eligible expenditure’** means an expenditure with respect to scientific research and experimental development carried out in Saskatchewan that:
  - (i) was incurred after March 31, 2012 by a corporation that has a permanent establishment in Saskatchewan; and
  - (ii) is a qualified expenditure within the meaning of subsections 127(9), (11.1), (11.5), (18), (19) and (20) of the federal Act, but includes only the portion of the corporation’s prescribed proxy amount pursuant to paragraph (b) of the definition of qualified expenditure in subsection 127(9) of the federal Act that can reasonably be considered to relate to scientific research and experimental development carried out in Saskatchewan;
- (c) **‘non-refundable research and development tax credit’** means the amount calculated pursuant to subsection (6);
- (d) **‘refundable research and development tax credit’** means the amount calculated pursuant to subsection (4);
- (e) **‘winding-up’** means a winding-up of a corporation to which subsection 88(1) of the federal Act applies.

(2) For the purposes of applying the term ‘qualified expenditure’ in subclause (ii) of the definition of ‘eligible expenditure’ in subsection (1), the reference to ‘government assistance’ in subsections 127(18), (19) and (20) of the federal Act does not include the refundable research and development tax credit of the corporation calculated pursuant to subsection (4) or the non-refundable research and development tax credit of the corporation calculated pursuant to subsection (6).

(3) An amount equal to the refundable research and development tax credit of the corporation for a taxation year is deemed to have been paid by the corporation on its balance due date on account of its tax payable pursuant to this Act for the taxation year.

(4) The refundable research and development tax credit of a Canadian-controlled private corporation for a taxation year is equal to the lesser of:

- (a) the amount RRDTTC calculated in accordance with the following formula:

$$\text{RRDTTC} = \text{RRD} + \text{RRB}$$

where:

RRD is 15% of the sum of all amounts, each of which is an eligible expenditure incurred by the corporation in the taxation year, determined without reference to subsection 13(7.1) of the federal Act;

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RRB is the sum of the amounts determined pursuant to paragraphs (e.1) and (e.2) of the definition of 'investment tax credit' in subsection 127(9) of the federal Act that are related to eligible expenditures, except that for the purpose of this subsection:

- (i) the specified percentage is 15%; and
  - (ii) each amount must relate to a repayment made by the taxpayer in the taxation year and not in any other taxation year; and
- (b) 15% of the corporation's expenditure limit determined in accordance with subsection 127(10.2) of the federal Act for the taxation year.
- (5) A corporation may deduct from its tax otherwise payable pursuant to this Act for a taxation year an amount equal to the lesser of:
- (a) its non-refundable research and development tax credit for the taxation year; and
  - (b) its tax otherwise payable pursuant to this Act for the taxation year.
- (6) The non-refundable research and development tax credit of a corporation for a taxation year is the amount NRDTTC calculated in accordance with the following formula:

$$\text{NRDTTC} = (\text{NRD} + \text{NRB} - \text{RTC}) + \text{OA} + (\text{NRDPY} + \text{OAPY} - \text{PD})$$

where:

NRD is 15% of the sum of all amounts, each of which is an eligible expenditure incurred by the corporation in the taxation year, determined without reference to subsection 13(7.1) of the federal Act;

NRB is the sum of the amounts determined pursuant to paragraphs (e.1) and (e.2) of the definition of 'investment tax credit' in subsection 127(9) of the federal Act that are related to eligible expenditures, except that for the purpose of this subsection:

- (a) the specified percentage is 15%; and
- (b) each amount must relate to a repayment made by the taxpayer in the taxation year and not in any other taxation year;

RTC is the amount of the corporation's refundable research and development tax credit for the taxation year determined in accordance with subsection (4);

OA is the sum of all amounts, each of which is an amount required by subsection (7) or (9) to be added in computing the corporation's non-refundable research and development tax credit for the taxation year;

NRDPY is 15% of the sum of all amounts, each of which is an eligible expenditure incurred by the corporation in any of the 10 taxation years preceding the taxation year or the three taxation years following that taxation year, determined without reference to subsection 13(7.1) of the federal Act;



OAPY is the sum of all amounts, each of which is an amount required by subsection (7) or (9) to be added in computing the corporation's non-refundable research and development tax credit for any of the 10 taxation years preceding the taxation year or the three taxation years following that taxation year;

PD is the sum of all amounts, each of which:

(a) is an amount deducted pursuant to subsection (5) from tax otherwise payable pursuant to this Act by the corporation for a preceding taxation year or an amount deemed to have been paid pursuant to subsection (3) by the corporation for a preceding taxation year; and

(b) is related to an eligible expenditure incurred in the taxation year, in any of the 10 taxation years preceding the taxation year or the three taxation years following that taxation year.

(7) In calculating its non-refundable research and development tax credit for a taxation year, a corporation that is a beneficiary under a trust must add its share of the amount that the trust would be required to calculate as the amounts NRD, NRB and NRDPY pursuant to subsection (6) for that taxation year if the trust were a corporation.

(8) For the purposes of subsection (7), a corporation's share is the amount that would reasonably be considered as its share, having regard to all circumstances, including the terms and conditions of the trust.

(9) In calculating its non-refundable research and development tax credit for a taxation year, a corporation that is a partner must add its share of the amount that the partnership would be required to calculate as the amounts NRD, NRB and NRDPY pursuant to subsection (6) for that taxation year if the partnership were a taxpayer.

(10) For the purposes of subsection (9), a corporation's share is the amount that would reasonably be considered as its share, having regard to all circumstances, including the terms and conditions of the partnership.

(11) For the purposes of calculating the non-refundable research and development tax credit of a new corporation that is the result of an amalgamation, the new corporation is deemed to be the continuation of each of its predecessor corporations if:

(a) the amalgamation took place after March 31, 2012; and

(b) one of its predecessor corporations had a non-refundable research and development tax credit, any portion of which was not deducted in any taxation year by the predecessor corporation in calculating its tax otherwise payable pursuant to this Act.

(12) For the purposes of calculating the non-refundable research and development tax credit of a parent corporation a subsidiary of which has been wound up, the parent corporation is deemed to be the continuation of its subsidiary if:

- (a) the winding-up took place after March 31, 2012; and
- (b) the subsidiary corporation had a non-refundable research and development tax credit, any portion of which was not deducted in any taxation year by the subsidiary corporation in calculating its tax otherwise payable pursuant to this Act.

(13) A corporation may renounce its non-refundable research and development tax credit that would otherwise be claimable with respect to all or any of its eligible expenditures incurred during a taxation year on or before the date by which the non-refundable research and development tax credit would otherwise:

- (a) reduce, pursuant to paragraph 37(1)(d) of the federal Act, any deduction of the corporation for the purposes of section 37 of the federal Act; or
- (b) reduce the corporation's qualified expenditures pursuant to any of subsections 127(18) to (20) of the federal Act.

(14) If a corporation renounces its non-refundable research and development tax credit pursuant to subsection (13) with respect to all or any of its eligible expenditures incurred during a taxation year:

- (a) the eligible expenditures shall not be taken into account in calculating the non-refundable research and development tax credit for the corporation at the end of that or any other taxation year; and
- (b) the corporation is deemed for all purposes never to have received, never to have been entitled to receive and never to have had a reasonable expectation of receiving that non-refundable research and development tax credit.

(15) Notwithstanding clause (1)(b), for the purpose of determining the refundable research and development tax credit or the non-refundable research and development tax credit of a corporation, the amount of a contract payment paid or payable by a person to the corporation for an eligible expenditure made by the corporation is deemed to be nil if:

- (a) the person is not entitled to treat the contract payment as an eligible expenditure pursuant to this section; or
- (b) the person is a corporation that has renounced the non-refundable research and development tax credit with respect to the contract payment pursuant to subsection (13).

(16) Subsection (4) does not apply to a corporation that is exempt from tax pursuant to section 149 of the federal Act”.

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**New section 64.2****14 The following section is added after section 64.1:****“Rental housing rebate****64.2(1)** In this section:

- (a) **‘certificate of continuing eligibility’** means a certificate issued by the minister responsible for the administration of *The Saskatchewan Housing Corporation Act* indicating that a rental housing project continues to be an eligible rental housing project during a taxation year;
- (b) **‘certificate of eligibility’** means a certificate issued by the minister responsible for the administration of *The Saskatchewan Housing Corporation Act* approving a rental housing project as an eligible rental housing project in accordance with subclauses (d)(i) to (iv);
- (c) **‘eligible corporation’** means a corporation that provides evidence satisfactory to the minister to establish that:
  - (i) the corporation’s only activities are the ownership and development of an eligible rental housing project and the rental of residential units in the project;
  - (ii) the corporation has developed an eligible rental housing project;
  - (iii) the corporation is the initial and sole owner of the eligible rental housing project; and
  - (iv) the corporation meets any additional conditions that may be prescribed in the regulations;
- (d) **‘eligible rental housing project’** means a residential rental housing project:
  - (i) that will be or is being used for the sole purpose of renting residential units;
  - (ii) for which a building permit has been issued on or after March 21, 2012 and before January 1, 2014;
  - (iii) that has residential units that are available for rent on or before December 31, 2016;
  - (iv) that meets any other criteria specified by the minister responsible for the administration of *The Saskatchewan Housing Corporation Act* for the purposes of this section; and
  - (v) for which a certificate of eligibility has been issued;
- (e) **‘eligible rental income’** means, with respect to an eligible rental housing project, rental income determined in accordance with subsection (11);

(f) **‘gross rental revenue’** means, with respect to an eligible rental housing project, the aggregate of all moneys received or receivable in a taxation year by an eligible corporation from or on behalf of tenants for:

- (i) the right to possess a rental unit for any period within that taxation year;
- (ii) the use of common areas as defined in *The Residential Tenancies Act, 2006* for any period within that taxation year; and
- (iii) services or facilities as defined in *The Residential Tenancies Act, 2006* for any period within that taxation year;

but does not include moneys received or receivable by an eligible corporation from or on behalf of tenants with respect to tenant security deposits;

(g) **‘rebate’** means a rental housing rebate granted by the minister pursuant to this section.

(2) A corporation that intends to apply for an initial rebate for a taxation year must submit to the minister an application in a form acceptable to the minister that provides:

- (a) evidence satisfactory to the minister that the corporation is an eligible corporation, including:
  - (i) the certificate of eligibility with respect to the rental housing project; and
  - (ii) the certificate of continuing eligibility with respect to the rental housing project for that taxation year;
- (b) evidence satisfactory to the minister that all tax payable by the corporation pursuant to this Act for that taxation year has been paid;
- (c) subject to subsection (3), the corporation’s election of either the detailed calculation method or proxy calculation method for the determination of the corporation’s rebate for the 10-year rebate period; and
- (d) any other information and records that the minister may require in order to determine the corporation’s eligibility.

(3) An election made by a corporation pursuant to clause (2)(c) is irrevocable after it is provided to the minister and applies throughout the 10-year rebate period.

(4) 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 rebate.

(5) Notwithstanding any of the provisions of this section, no rebate is payable for a taxation year before 2012.

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- (6) 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 rebate equal to the amount of the corporation's rebate determined pursuant to subsection (10) for the taxation year; and
  - (b) if the minister is satisfied that the corporation is not entitled to a rebate, send a written notice of determination to the corporation setting out the determination that the corporation is not entitled to the rebate and the reasons for the determination.
- (7) If the minister has granted a rebate to an eligible corporation for a taxation year pursuant to clause (6)(a), the corporation shall, subject to clause (8)(c) and subclause (9)(b)(ii), for each of the next nine consecutive taxation years, submit to the minister:
- (a) evidence satisfactory to the minister that the corporation is an eligible corporation, including a certificate of continuing eligibility with respect to the rental housing project for that taxation year;
  - (b) evidence satisfactory to the minister that all tax payable by the corporation pursuant to this Act for the taxation year has been paid; and
  - (c) any other information and records that the minister may require in order to determine the corporation's eligibility.
- (8) If a corporation fails, in any taxation year, to submit to the minister the information or records required to be submitted pursuant to subsection (7), the minister may:
- (a) determine that the corporation is not entitled to a rebate for that taxation year;
  - (b) send a written notice of determination to the corporation setting out the determination that the corporation is not entitled to the rebate; and
  - (c) terminate the corporation's eligibility for a rebate for all subsequent taxation years remaining in the 10-year rebate period.
- (9) On receipt of the eligible corporation's information and records for a taxation year pursuant to subsection (7), the minister may:
- (a) if the minister is satisfied that the applicant is an eligible corporation and has complied with this section, grant a rebate equal to the amount of the corporation's rebate determined pursuant to subsection (10) for the taxation year; and
  - (b) if the minister is satisfied that the corporation is not entitled to a rebate:
    - (i) send a written notice of determination to the corporation setting out the determination that the corporation is not entitled to the rebate and the reasons for the determination; and
    - (ii) terminate the corporation's eligibility for a rebate for all subsequent taxation years remaining in the 10-year rebate period.

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(10) The amount of an eligible corporation's rebate for a taxation year is equal to:

(a) if the eligible corporation has elected the detailed calculation method, 10% of the corporation's eligible rental income for the taxation year; or

(b) if the eligible corporation has elected the proxy calculation method, 10% of a proxy amount PA determined in accordance with the following formula:

$$PA = GRR \times PM$$

where:

GRR is the eligible corporation's gross rental revenue for the taxation year from an eligible rental housing project; and

PM is the deemed profit margin of the eligible corporation equal to the rate prescribed in the regulations.

(11) The amount of an eligible corporation's eligible rental income for a taxation year is the amount ERI determined in accordance with the following formula:

$$ERI = TI - SB - D - I - RCT - DS$$

where:

TI is the amount of the eligible corporation's taxable income earned in the taxation year in Saskatchewan;

SB is the amount of the eligible corporation's taxable income earned in the taxation year in Saskatchewan that was taxed at the rate of tax SR in the formula set out in section 56.2;

D is amount of the eligible corporation's taxable income earned in the taxation year in Saskatchewan resulting from the disposition of all or any part of the eligible rental housing project;

I is the amount of the eligible corporation's taxable investment income earned in the taxation year in Saskatchewan, except for:

(a) investment income that the minister determines is directly attributable to the rental of residential units in the eligible rental housing project; and

(b) interest income on replacement reserves, tenant security deposits and prepaid rents;

RCT is the amount of the eligible corporation's taxable income earned in the taxation year in Saskatchewan resulting from a transaction that the minister in his or her sole discretion determines to have been artificial in nature and undertaken solely as a means to increase the amount of the rebate, including transactions involving financing and management services between the eligible corporation and a person or partnership with whom the eligible corporation is not dealing at arm's length;

DS is the positive difference, if any, between:

(a) the amount DDS determined in accordance with the following formula:

$$DDS = CC \times DR \times DI$$

where:

CC is the initial capital cost of the land and buildings associated with the eligible corporation's eligible rental housing project;

DR is the deemed debt ratio of 50%; and

DI is the debt interest rate of 5%; and

(b) the actual debt servicing costs deducted by the eligible corporation in determining its taxable income earned in the taxation year in Saskatchewan.

(12) If, after reviewing the application and all other relevant information and records, the minister grants a rebate to a corporation for a taxation year pursuant to clause (6)(a) or clause (9)(a), an amount equal to the corporation's rebate for the taxation year is deemed to have been paid by the corporation on account of its tax payable pursuant to this Act for that taxation year and the minister shall:

(a) notify the corporation in writing of the amount of the rebate to which the corporation is entitled for the taxation year; and

(b) pay to the corporation the amount of the rebate, without interest.

(13) The minister shall initially calculate the amount of the rebate 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.

(14) If, after making an initial calculation pursuant to subsection (13), the federal minister subsequently issues any assessment or reassessment of the amount of tax payable or paid by the corporation for the taxation 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 receipt of the assessment or reassessment; and

(b) the minister may make any adjustments to the amount of the corporation's rebate determined pursuant to subsection (10) that may be necessary to reflect any subsequent assessment or reassessment issued by the federal minister.

(15) If the minister acts pursuant to subsection (14):

(a) the amount of any additional rebate to which the corporation is entitled pursuant to this section for the taxation year is deemed to have been paid by the corporation on account of its tax payable pursuant to this Act and the minister shall pay to the corporation the amount of that additional rebate without interest; or

(b) the minister shall serve a written notice on the corporation for the repayment of the rebate or the excess amount of the rebate to which the corporation is not entitled for the taxation year.

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(16) If, after a rebate pursuant to this section is paid to a corporation, it is subsequently determined that the corporation received a rebate to which it was not entitled or received an amount greater than the amount of the rebate to which it is entitled, the corporation shall:

(a) repay the amount or the excess amount, as the case may be, to the minister; and

(b) pay interest to the minister on the amount or excess amount, as the case may be, computed pursuant to this Act as if the amount or excess amount 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.

(17) Notwithstanding clause (16)(b), interest is not payable by a corporation if the amount of the rebate or excess amount determined pursuant to subsection (16) 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.

(18) Notwithstanding any other provision of this section:

(a) no eligible corporation shall receive a rebate for more than one eligible rental housing project;

(b) no rebate paid to an eligible corporation for a taxation year shall exceed the amount of tax paid for the taxation year pursuant to this Act by the eligible corporation;

(c) no rebate paid to an eligible corporation for a taxation year shall exceed 10/12ths of the corporation's tax for the taxation year determined pursuant to the portion of the formula in either section 56.1 or 56.2, as the case may be, to which the rate of tax GR applies; and

(d) a rebate, or entitlement to a rebate, may not be assigned or transferred by the eligible corporation that applied for the rebate.

(19) A rebate overpayment mentioned in subsection (16) is a debt due to the Crown in right of Saskatchewan and may be recovered:

(a) as if it were a tax pursuant to Part III of *The Revenue and Financial Services Act*; or

(b) in any other manner authorized by law".

**Section 68 amended**

**15 Subsection 68(3) is amended by striking out "sections 61, 61.1, 64.1 and 96" and substituting "sections 61, 61.1, 64.1, 64.2 and 96".**



**Section 124 amended**

**16(1) The following clauses are added after clause 124(1)(g.3):**

“(g.4) for the purposes of subclause 64.2(1)(c)(iv), prescribing any additional conditions that must be established by a corporation;

“(g.5) for the purposes of clause 64.2(10)(b), prescribing the rate for the calculation of the deemed profit margin of an eligible corporation”.

**(2) The following subsection is added after subsection 124(2.2):**

“(2.3) Regulations made pursuant to clauses (1)(g.4) and (g.5) may be made retroactive to a day not earlier than March 21, 2012”.

**Coming into force**

**17(1)** Subject to subsections (2) to (4), this Act comes into force on assent but is retroactive and is deemed to have been in force on and from January 1, 2012.

(2) Section 5 comes into force on assent but is retroactive and is deemed to have been in force on and from January 1, 2010.

(3) Sections 12 and 13 come into force on assent but are retroactive and are deemed to have been in force on and from April 1, 2012.

(4) Sections 14 to 16 come into force on assent but are retroactive and are deemed to have been in force on and from March 21, 2012.





FIRST SESSION

**Twenty-seventh  
Legislature**

SASKATCHEWAN

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**B I L L**

No. 43

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

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Received and read the

First time

Second time

Third time

And passed

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Honourable Ken Krawetz

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