

BILL

No. 178

An Act to amend *The Income Tax Act, 2000* and to make a consequential amendment to *The Graduate Retention Program Act*

(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, 2015*.

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

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

Section 2 amended

3 **Clause 2(bb) is repealed and the following substituted:**

“(bb) ‘**taxation year**’ means the period determined in accordance with section 249 of the federal Act”.

Section 21 amended

4 **Subsection 21(2) is repealed and the following substituted:**

“(2) In applying the definition of ‘total charitable gifts’ in subsection 118.1(1) of the federal Act for the purposes of subsection (1), the words ‘to the extent that the amount was not included in determining an amount that was deducted under this section in computing any individual’s tax payable under this Part for a preceding taxation year’ in that definition are to be read as ‘to the extent that the amount was not included in determining an amount that was deducted for a preceding taxation year pursuant to this section in computing the individual’s tax payable pursuant to this Act or pursuant to section 118.1 of the federal Act in computing the individual’s tax pursuant to Part 1 of the federal Act’”.

Section 35 amended

5 **Subsection 35(8) is repealed and the following substituted:**

“(8) Paragraphs 126(6)(a), (c) and (d) of the federal Act apply for the purposes of this section”.

Section 37.1 amended

6 **Subsection 37.1(2) is amended by striking out “2012 taxation year and each subsequent taxation year” and substituting “2012, 2013 and 2014 taxation years”.**

New section 37.2**7 The following section is added after section 37.1:****“Non-refundable graduate tuition tax credit—2015 and subsequent taxation years**

37.2(1) In this section, ‘**graduate tuition tax credit**’ means an individual’s graduate tuition tax credit determined for a taxation year in accordance with clause 39.1(9)(c).

(2) Subject to subsections (3), (4), (5) and (6), for the 2015 and subsequent taxation years, 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 any unused graduate tuition tax credit amount from a previous 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.

(6) An individual mentioned in subsection (2) shall not deduct any unused graduate tuition tax credit amount from a previous taxation year after the ninth year following the individual’s year of graduation, as defined in section 39.1”.

Section 39 amended**8 Subsection 39(3) is amended:**

- (a) by adding “and” after clause (a);
- (b) by striking out “and” after clause (b); and
- (c) by repealing clause (c).

Section 39.1 amended**9(1) Subsection 39.1(7) is repealed and the following substituted:**

“(7) Notwithstanding any other provision of this Act, the maximum amount of graduate tuition tax credits that an individual may claim pursuant to subsection (9) is \$20,000 in the individual’s lifetime”.

(2) Subsection 39.1(9) is amended:

- (a) by striking out “and” after clause (a);
- (b) in clause (b) by striking out “2012 taxation year and each subsequent taxation year” and substituting “2012, 2013 and 2014 taxation years”;

- (c) by adding “and” after clause (b); and
- (d) by adding the following clause after clause (b):

“(c) for the 2015 and subsequent taxation years, an amount equal to the eligible individual’s graduate tuition tax credit for the taxation year with respect to each graduate retention program eligibility certificate may be claimed in accordance with section 37.2”.

Section 39.11 amended

10 Subsection 39.11(2) is amended in the portion preceding clause (a) by striking out “2012 taxation year and each subsequent taxation year” and substituting “2012, 2013 and 2014 taxation years”.

Section 39.2 amended

11 Clause 39.2(1)(c) is amended:

- (a) by striking out “and” after subclause (i);
- (b) by adding “and” after subclause (ii); and
- (c) by adding the following subclause after subclause (ii):

“(iii) has an adjusted income for the taxation year as defined in clause 38(1)(a) that does not exceed \$60,000”.

Section 63.2 amended

12 Subclause 63.2(1)(b)(i) is amended by adding “and before April 1, 2015” after “March 31, 2012”.

New section 63.3

13 The following section is added after section 63.2:

“Non-refundable research and development tax credits

63.3(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, 2015 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) **‘research and development tax credit’** means the amount calculated pursuant to subsection (4);

(d) **‘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 (1)(b)(ii), the reference to ‘government assistance’ in subsections 127(18), (19) and (20) of the federal Act does not include the research and development tax credit of the corporation calculated pursuant to subsection (4).

(3) A corporation may deduct from its tax otherwise payable pursuant to this Act for a taxation year an amount not more than the lesser of:

- (a) its research and development tax credit for the taxation year; and
- (b) its tax otherwise payable pursuant to this Act for the taxation year.

(4) The research and development tax credit of a corporation for a taxation year is the positive amount, RDTC, if any, calculated in accordance with the following formula:

$$\text{RDTC} = (\text{RD} + \text{RDPY} + \text{OA} + \text{OAPY} + \text{RB}) - \text{PD}$$

where:

RD is 10% 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;

RDPY is 10% 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;

OA is the sum of all amounts, each of which is an amount required by subsection (5) or (7) to be added in computing the corporation’s research and development tax credit for the taxation year;

OAPY is the sum of all amounts, each of which is an amount required by subsection (5) or (7) to be added in computing the corporation’s 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;

RB 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 purposes of this subsection:

- (a) the specified percentage is 10%; and
- (b) each amount must relate to a repayment made by the taxpayer in the taxation year and not in any other taxation year; and

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

- (a) is an amount deducted pursuant to this section from tax otherwise payable pursuant to this Act by the corporation for a preceding taxation year; and

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- (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.
- (5) In calculating its 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 RD, RDPY and RB pursuant to subsection (4) for that taxation year if the trust were a corporation.
- (6) For the purposes of subsection (5), 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.
- (7) In calculating its 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 RD, RDPY and RB pursuant to subsection (4) for that taxation year if the partnership were a taxpayer.
- (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 partnership.
- (9) For the purposes of calculating the 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, 2015; and
 - (b) one of its predecessor corporations had a 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.
- (10) For the purposes of calculating the 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, 2015; and
 - (b) the subsidiary corporation had a 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.
- (11) A corporation may renounce its 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 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.

(12) If a corporation renounces its research and development tax credit pursuant to subsection (11) 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 research and development tax credit for the corporation for 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 research and development tax credit.

(13) Notwithstanding clause (1)(b), for the purpose of determining the 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 research and development tax credit with respect to the contract payment pursuant to subsection (11)".

New sections 64.3 to 64.5

14(1) The following sections are added after section 64.2:

"Manufacturing and processing exporter hiring incentive

64.3(1) In this section:

(a) **'base year employment level'** means, subject to subsection (3), an eligible corporation's employment level for its 2014 taxation year;

(b) **'certificate of eligibility'** means a certificate provided by the minister responsible for *The Economic and Co-operative Development Act* approving the corporation as an eligible corporation;

(c) **'creative industry activities'** means activities as described in clause 2(c) of *The Creative Saskatchewan Act*;

(d) **'current year employment level'** means an eligible corporation's employment level for its current taxation year;

(e) **'eligible corporation'** means a corporation that has been granted a certificate of eligibility to establish:

(i) that, in the current taxation year, either:

(A) the corporation is primarily engaged in manufacturing or processing at a facility in Saskatchewan and at least 25% of revenues of that activity are generated through export; or

(B) the corporation is undertaking creative industry activities at a facility in Saskatchewan and at least 25% of revenues of that activity are generated through export; and

(ii) that the corporation is in compliance with any additional conditions that may be prescribed in the regulations;

(f) **‘employment level’** means the number, as at the end of a taxation year, of the eligible corporation’s full-time employees at a facility in Saskatchewan, as evidenced by the eligible corporation to the satisfaction of the minister, who are not:

- (i) the business owners or related to the business owners;
- (ii) seasonal, temporary or contracted employees; or
- (iii) employees claimed pursuant to section 64.4;

(g) **‘export’** means to sell goods and products produced in Saskatchewan to a destination outside of Saskatchewan;

(h) **‘hiring tax credit’** means the amount calculated pursuant to subsection (8);

(i) **‘manufacturing or processing’** means, subject to subsection (2), manufacturing or processing within the meaning of subsection 125.1(3) of the federal Act, and includes ‘qualified activities’ as defined in the federal regulations made for the purposes of the definition of ‘Canadian manufacturing and processing profits’ in subsection 125.1(3) of the federal Act;

(j) **‘rebate’** means the amount determined pursuant to subsection (7).

(2) In applying the definition of ‘manufacturing or processing’ in subsection 125.1(3) of the federal Act for the purposes of clause (1)(i), that definition is to be read as if it did not include paragraph (h).

(3) The base year employment level of a corporation that does not have a 2014 taxation year is deemed to be zero.

(4) An eligible corporation that intends to apply for a rebate must submit to the minister an application on a form acceptable to the minister that:

- (a) provides evidence satisfactory to the minister, including a certificate of eligibility, that the corporation is an eligible corporation;
- (b) provides evidence satisfactory to the minister that all tax payable by the eligible corporation pursuant to this Act for each taxation year in which it was an eligible corporation has been paid;
- (c) clearly states the eligible corporation’s base year employment level and current year employment level; and
- (d) contains any other information and records that the minister may require in order to determine the eligible corporation’s rebate.

(5) An application pursuant to subsection (4) must be made within three years after the first taxation year for which the eligible corporation intends to claim a rebate.

(6) On receipt of an application pursuant to subsection (4), 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 for the taxation year for which a rebate is claimed; or
- (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) The amount of an eligible corporation's rebate for a taxation year is equal to the lesser of:

(a) the sum of:

(i) the eligible corporation's hiring tax credit for the taxation year; and

(ii) any portion of the eligible corporation's hiring tax credit determined for any of the five preceding taxation years that has not been previously rebated to the eligible corporation pursuant to this section or that has not been previously renounced by the eligible corporation pursuant to subsection (16); and

(b) the eligible corporation's tax otherwise payable pursuant to this Act for the taxation year.

(8) Subject to subsections (9), (10), (12), (14) and (15), for each of an eligible corporation's 2015, 2016, 2017, 2018 and 2019 taxation years, the hiring tax credit for the eligible corporation is the positive amount, HTC, if any, calculated in accordance with the following formula:

$$\text{HTC} = (\text{CYEL} - \text{BYEL}) \times \$3,000$$

where:

CYEL is current year employment level of the eligible corporation;

BYEL is base year employment level of the eligible corporation.

(9) An eligible corporation that has more than one taxation year during a calendar year may calculate a hiring tax credit pursuant to subsection (8) only once per calendar year.

(10) An eligible corporation that is a beneficiary under a trust, in calculating its hiring tax credit for a taxation year, must include the eligible corporation's share of the amount that the trust, if the trust were a corporation, would be required to calculate as the amounts CYEL and BYEL pursuant to subsection (8) for that taxation year.

(11) For the purposes of subsection (10), an eligible 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.

(12) An eligible corporation that is a partner, in calculating its hiring tax credit for a taxation year, must include the eligible corporation's share of the amount that the partnership, if the partnership were a taxpayer, would be required to calculate as the amounts CYEL and BYEL pursuant to subsection (8) for that taxation year.

(13) For the purposes of subsection (12), an eligible 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.

(14) For the purposes of calculating the hiring tax credit of a new corporation that is the result of an amalgamation that occurs after December 31, 2014:

(a) the new corporation is deemed to be the continuation of each of its predecessor corporations if one of its predecessor corporations had a hiring tax credit, any portion of which was not deducted or renounced in any taxation year by the predecessor corporation in computing its tax otherwise payable pursuant to this Act; and

(b) the new corporation's BYEL is deemed to be the sum of the BYEL, if any, of the predecessor corporations.

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- (15) For the purpose of calculating the hiring tax credit of a parent corporation, a subsidiary of which has been wound up after December 31, 2014:
- (a) the parent corporation is deemed to be a continuation of its subsidiary if the subsidiary corporation had a hiring tax credit, any portion of which was not deducted or renounced in any taxation year by the subsidiary corporation in computing its tax otherwise payable pursuant to this Act; and
 - (b) the parent corporation's BYEL is deemed to be the sum of the BYEL, if any, of the parent corporation and the subsidiary corporation.
- (16) An eligible corporation may renounce its hiring tax credit that would otherwise be claimable by it in a taxation year on or before the date by which the corporation is required to file its return of income for that taxation year pursuant to section 150 of the federal Act.
- (17) Notwithstanding any of the provisions of this section, no rebate is payable for a taxation year before 2015.
- (18) If, after reviewing the application and all other relevant information and records, the minister grants a rebate pursuant to clause (6)(a), the minister shall:
- (a) notify the eligible corporation in writing of the amount of the rebate to which the eligible corporation is entitled for the taxation year; and
 - (b) pay to the eligible corporation the amount of the rebate, without interest.
- (19) The minister shall initially determine 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 taxation year pursuant to this Act.
- (20) If, after an initial determination has been made pursuant to subsection (19), the federal minister issues any assessment or reassessment of the amount of tax payable or paid by the eligible corporation for the taxation year pursuant to this Act:
- (a) the eligible 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 eligible corporation's rebate determined pursuant to subsection (19) that may be necessary to reflect any subsequent assessment or reassessment issued by the federal minister.
- (21) If the minister acts pursuant to subsection (20), the minister shall:
- (a) pay to the eligible corporation any additional rebate to which the eligible corporation is entitled pursuant to this section for the taxation year, without interest; or
 - (b) serve a written demand on the eligible corporation for the repayment of the rebate or the excess amount of the rebate to which the eligible corporation is not entitled for the taxation year.

(22) 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 was entitled or if a written demand is served on the corporation pursuant to clause (21)(b), the corporation shall:

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

(b) pay interest to the minister on the amount of the rebate or the 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 the excess amount was paid to the corporation to the day it is repaid to the minister.

(23) Notwithstanding clause (22)(b), interest is not payable by an eligible corporation if the amount of the rebate or the excess amount as determined pursuant to subsection (22) is the result of the eligible corporation claiming a deduction pursuant to section 111 of the federal Act with respect to a loss for a subsequent taxation year.

(24) A rebate overpayment mentioned in subsection (22) 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.

“Manufacturing and processing exporter head office incentive

64.4(1) In this section:

(a) **‘base year employment level’** means, subject to subsection (3), an eligible corporation’s employment level for its 2014 taxation year;

(b) **‘certificate of eligibility’** means a certificate provided by the minister responsible for *The Economic and Co-operative Development Act* approving the corporation as an eligible corporation;

(c) **‘creative industry activities’** means activities as described in clause 2(c) of *The Creative Saskatchewan Act*;

(d) **‘current year employment level’** means an eligible corporation’s employment level for its current taxation year;

(e) **‘eligible corporation’** means a corporation that has been granted a certificate of eligibility to establish that the corporation:

(i) is a qualifying corporation;

(ii) has a current year employment level of a minimum of 10 employees and a staff payroll exceeding \$1,000,000 per year; and

(iii) has a current year employment level that exceeds the base year employment level by the greater of:

(A) 10 employees; and

(B) a 20% increase in the base year employment level;

- (f) **'employment level'** means the number, as at the end of a taxation year, of the eligible corporation's full-time employees who ordinarily perform head office activities at a single location in Saskatchewan, as evidenced by the eligible corporation to the satisfaction of the minister, who are not:
- (i) the business owners or related to the business owners;
 - (ii) seasonal, temporary or contracted employees; or
 - (iii) employees claimed pursuant to section 64.3;
- (g) **'export'** means to sell goods and products produced in Saskatchewan to a destination outside of Saskatchewan;
- (h) **'head office activities'** means the carrying out of the following functions:
- (i) strategic planning;
 - (ii) corporate communications;
 - (iii) taxation;
 - (iv) legal;
 - (v) marketing;
 - (vi) finance;
 - (vii) human resources;
 - (viii) information technology;
 - (ix) procurement;
- (i) **'head office tax credit'** means the amount calculated pursuant to subsection (8);
- (j) **'manufacturing or processing'** means, subject to subsection (2), manufacturing or processing within the meaning of subsection 125.1(3) of the federal Act, and includes 'qualified activities' as defined in the federal regulations made for the purposes of the definition of 'Canadian manufacturing and processing profits' in subsection 125.1(3) of the federal Act;
- (k) **'qualifying corporation'** means a corporation that provides evidence satisfactory to the minister to establish:
- (i) that, in the current taxation year, the corporation:
 - (A) is primarily engaged in manufacturing or processing at a facility in Saskatchewan and at least 25% of revenues of that activity are generated through export; or
 - (B) is undertaking creative industry activities at a facility in Saskatchewan and at least 25% of revenues of that activity are generated through export;
 - (ii) that, in the current taxation year, the corporation ordinarily carries out at least five head office activities at a single location in Saskatchewan; and
 - (iii) that the corporation is in compliance with any additional conditions that may be prescribed in the regulations;
- (l) **'rebate'** means the amount determined pursuant to subsection (7).

- (2) In applying the definition of ‘manufacturing or processing’ in subsection 125.1(3) of the federal Act for the purposes of clause (1)(j), that definition is to be read as if it did not include paragraph (h).
- (3) The base year employment level for a corporation that does not have a 2014 taxation year is deemed to be zero.
- (4) An eligible corporation that intends to apply for a rebate must submit to the minister an application on a form acceptable to the minister that:
- (a) provides evidence satisfactory to the minister, including a certificate of eligibility, that the corporation is an eligible corporation;
 - (b) provides evidence satisfactory to the minister that all tax payable by the eligible corporation pursuant to this Act for each taxation year in which it was an eligible corporation has been paid;
 - (c) clearly states the eligible corporation’s base year employment level and current year employment level; and
 - (d) contains any other information and records that the minister may require in order to determine the eligible corporation’s rebate.
- (5) An application pursuant to subsection (4) must be made within three years after the first taxation year for which the eligible corporation intends to claim a rebate.
- (6) On receipt of an application pursuant to subsection (4), 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 for the taxation year for which a rebate is claimed; or
 - (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) The amount of an eligible corporation’s rebate for a taxation year is equal to the lesser of:
- (a) the sum of:
 - (i) the eligible corporation’s head office tax credit for the taxation year; and
 - (ii) any portion of the eligible corporation’s head office tax credit determined for any of the five preceding taxation years that has not been previously rebated to the eligible corporation pursuant to this section or that has not been previously renounced by the eligible corporation pursuant to subsection (16); and
 - (b) the eligible corporation’s tax otherwise payable pursuant to this Act for the taxation year.

(8) Subject to clauses subsections (9), (10), (12), (14) and (15), for each of an eligible corporation's 2015, 2016, 2017, 2018 and 2019 taxation years, the head office tax credit for the eligible corporation is the positive amount, HOTC, if any, calculated in accordance with the following formula:

$$\text{HOTC} = (\text{CYEL} - \text{BYEL}) \times \$10,000$$

where:

CYEL is current year employment level of the eligible corporation;

BYEL is base year employment level of the eligible corporation.

(9) An eligible corporation that has more than one taxation year during a calendar year may calculate a head office tax credit pursuant to subsection (8) only once per calendar year.

(10) An eligible corporation that is a beneficiary under a trust, in calculating its head office tax credit for a taxation year, must include the eligible corporation's share of the amount that the trust, if the trust were a corporation, would be required to calculate as the amounts CYEL and BYEL pursuant to subsection (8) for that taxation year.

(11) For the purposes of subsection (10), an eligible 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.

(12) An eligible corporation that is a partner, in calculating its head office tax credit for a taxation year, must include the eligible corporation's share of the amount that the partnership, if the partnership were a taxpayer, would be required to calculate as the amounts CYEL and BYEL pursuant to subsection (8) for that taxation year.

(13) For the purposes of subsection (12), an eligible 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.

(14) For the purposes of calculating the head office tax credit of a new corporation that is the result of an amalgamation that occurs after December 31, 2014:

(a) the new corporation is deemed to be the continuation of each of its predecessor corporations if one of its predecessor corporations had a head office tax credit, any portion of which was not deducted or renounced in any taxation year by the predecessor corporation in computing its tax otherwise payable pursuant to this Act; and

(b) the new corporation's BYEL is deemed to be the sum of the BYEL, if any, of the predecessor corporations.

(15) For the purpose of calculating the head office tax credit of a parent corporation, a subsidiary of which has been wound up after December 31, 2014:

(a) the parent corporation is deemed to be a continuation of its subsidiary if the subsidiary corporation had a head office tax credit, any portion of which was not deducted or renounced in any taxation year by the subsidiary corporation in computing its tax otherwise payable pursuant to this Act; and

(b) the parent corporation's BYEL is deemed to be the sum of the BYEL, if any, of the parent corporation and the subsidiary corporation.

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- (16) An eligible corporation may renounce its head office tax credit that would otherwise be claimable by it in a taxation year on or before the date by which the corporation is required to file its return of income for that taxation year pursuant to section 150 of the federal Act.
- (17) Notwithstanding any of the provisions of this section, no rebate is payable for a taxation year before 2015.
- (18) If, after reviewing the application and all other relevant information and records, the minister grants a rebate pursuant to clause (6)(a), the minister shall:
- (a) notify the eligible corporation in writing of the amount of the rebate to which it is entitled for the taxation year; and
 - (b) pay to the eligible corporation the amount of the rebate, without interest.
- (19) The minister shall initially determine 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.
- (20) If, after an initial determination has been made pursuant to subsection (19), the federal minister issues any assessment or reassessment of the amount of tax payable or paid by the eligible corporation for the year pursuant to this Act:
- (a) the eligible 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 eligible corporation's rebate determined pursuant to subsection (19) that may be necessary to reflect any subsequent assessment or reassessment issued by the federal minister.
- (21) If the minister acts pursuant to subsection (20), the minister shall:
- (a) pay to the eligible corporation any additional rebate to which the eligible corporation is entitled pursuant to this section for the taxation year, without interest; or
 - (b) serve a written demand on the eligible 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.
- (22) 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 was entitled or if a written demand is served on the corporation pursuant to clause (21)(b), the corporation shall:
- (a) repay the amount of the rebate or the excess amount, as the case may be, to the minister; and
 - (b) pay interest to the minister on the amount of the rebate or the 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 the excess amount was paid to the corporation to the day it is repaid to the minister.

(23) Notwithstanding clause (22)(b), interest is not payable by an eligible corporation if the amount of the rebate or the excess amount as determined pursuant to subsection (22) is the result of the eligible corporation claiming a deduction pursuant to section 111 of the federal Act with respect to a loss for a subsequent taxation year.

(24) A rebate overpayment mentioned in subsection (22) 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”.

(2) The following section is added after section 64.4:

“Primary steel production rebate

64.5(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 but does not include any depreciable property that has previously been used in Saskatchewan;

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

(i) that the corporation is engaging in primary steel production at a facility in Saskatchewan using materials that it has acquired at fair market value;

(ii) that, after March 18, 2015, the corporation acquired eligible assets at fair market value for use in primary steel production taking place in Saskatchewan having a capital cost equal to at least \$100 million; and

(iii) that the corporation is in compliance with any additional conditions that may be prescribed in the regulations;

(c) **‘eligible tax’** is the amount, ET, determined in accordance with the following formula:

$$ET = TT \times \frac{EC - IC}{EC}$$

where:

TT is total tax for the taxation year of the eligible corporation;

EC is expanded productive capacity of the eligible corporation;

IC is initial productive capacity of the eligible corporation;

(d) **‘expanded productive capacity’** means nameplate capacity as determined following the capital investment mentioned in subclause (b)(ii);

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- (e) **‘initial productive capacity’** means nameplate capacity as determined before the capital investment mentioned in subclause (b)(ii);
- (f) **‘nameplate capacity’** means the maximum sustained output of a facility as measured in product tonnes over a 12-month period, certified by a professional engineer as defined in *The Engineering and Geoscience Professions Act*;
- (g) **‘primary steel production’** means smelting and refining metals from ore, pig or scrap to produce steel in ingot or molten form, the output of which is then rolled, drawn or cast to produce sheet, strip or other forms of steel;
- (h) **‘rebate’** means a primary steel production tax rebate granted by the minister pursuant to this section;
- (i) **‘total tax’** means the amount of tax payable by the eligible corporation pursuant to this Act for a taxation year before the application of any deductions or credits pursuant to sections 60.1, 61.1, 63.2, 63.3, 64.3, 64.4 or 67.1 for the taxation year.
- (2) A corporation that intends to apply for a rebate 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 eligible corporation’s rebate.
- (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 rebate.
- (4) Notwithstanding any of the provisions of this section:
- (a) no rebate is payable for a taxation year before 2015; and
- (b) no rebate payable to an eligible corporation for a taxation year shall exceed the amount of tax paid by the eligible corporation for the taxation year pursuant to this Act.
- (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 rebate for the taxation year for which a rebate is claimed and each of the next four taxation years equal to the amount of the corporation’s rebate within the meaning of subsection (6) for each of those taxation years; or
- (b) if the minister is satisfied that the applicant is not entitled to a rebate, send a written notice of determination to the applicant setting out the determination that the applicant is not entitled to the rebate and the reasons for the determination.

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- (6) Subject to subsection (7), the amount of an eligible corporation's rebate for a taxation year is equal to:
- (a) for the first taxation year for which a rebate is claimed, 100% of eligible tax;
 - (b) for the second taxation year for which a rebate is claimed, 100% of eligible tax;
 - (c) for the third taxation year for which a rebate is claimed, 75% of eligible tax;
 - (d) for the fourth taxation year for which a rebate is claimed, 50% of eligible tax; and
 - (e) for the fifth taxation year for which a rebate is claimed, 25% of eligible tax.
- (7) For the purposes of subsection (6), the first taxation year for which a rebate is claimed must be within six years after completion of the capital investment mentioned in subclause (1)(b)(ii).
- (8) If, after reviewing the application and all other relevant information and records, the minister grants a rebate pursuant to clause (5)(a), the minister shall:
- (a) notify the eligible corporation in writing of the amount of the rebate to which it is entitled for the taxation year; and
 - (b) pay to the eligible corporation the amount of the rebate, without interest.
- (9) The minister shall initially determine 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 eligible corporation for the taxation year pursuant to this Act.
- (10) If, after an initial determination has been made pursuant to subsection (9), the federal minister issues any assessment or reassessment of the amount of tax payable or paid by the eligible corporation for the taxation year pursuant to this Act:
- (a) the eligible 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 eligible corporation's rebate determined pursuant to subsection (6) that may be necessary to reflect any subsequent assessment or reassessment issued by the federal minister.
- (11) If the minister acts pursuant to subsection (10), the minister shall:
- (a) pay to the eligible corporation any additional rebate to which it is entitled pursuant to this section for the taxation year, without interest; or
 - (b) serve a written demand on the eligible 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.

(12) 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 was entitled or if a written demand is served on the corporation pursuant to clause (11)(b), the corporation shall:

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

(b) pay interest to the minister on the amount of the rebate or the 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 the excess amount was paid to the corporation to the day it is repaid to the minister.

(13) Notwithstanding clause (12)(b), interest is not payable by an eligible corporation if the amount of the rebate or the excess amount as determined pursuant to subsection (12) is the result of the eligible corporation claiming a deduction pursuant to section 111 of the federal Act with respect to a loss for a subsequent taxation year.

(14) A rebate overpayment mentioned in subsection (12) 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(1) Subsection 68(3) is amended by adding “, 64.3, 64.4” after “64.2”.

(2) Subsection 68(3) is amended by adding “, 64.5” after “64.4”.

Section 95 amended

16(1) Subsection 95(1) is amended by adding “to (1.53)” after “(1.5)”.

(2) Subsection 95(2) is amended by adding “to (1.53)” after “(1.5)”.

Section 124 amended

17(1) Subsection 124(1) is amended:

(a) by adding the following clauses after clause (g.5):

“(g.6) for the purposes of subclause 64.3(1)(e)(ii), prescribing any additional conditions that must be established by a corporation;

“(g.7) for the purposes of subclause 64.4(1)(k)(iii), prescribing any additional conditions that must be established by a corporation”; **and**

(b) by adding the following clause after clause (g.7):

“(g.8) for the purposes of subclause 64.5(1)(b)(iii), prescribing any additional conditions that must be established by a corporation”.

(2) The following subsection is added after subsection 124(2.3):

“(2.4) Regulations made pursuant to clauses (1)(g.6) and (g.7) may be made retroactive to a day not earlier than January 1, 2015”.

(3) The following subsection is added after subsection 124(2.4):

“(2.5) Regulations made pursuant to clause (1)(g.8) may be made retroactive to a day not earlier than March 19, 2015”.

S.S. 2008, c.G-5.11, section 5 amended

18 Subsection 5(2) of *The Graduate Retention Program Act* is amended by striking out “and subsequent” and substituting “, 2013 and 2014”.

Coming into force

19(1) Subject to subsections (2) to (8), this Act comes into force on assent but is retroactive and is deemed to have been in force on and from January 1, 2015.

(2) Section 3 comes into force on assent but is retroactive and is deemed to have been in force on and from December 21, 2002.

(3) Section 4 comes into force on assent but is retroactive and is deemed to have been in force on and from January 1, 2012.

(4) Section 5 comes into force on assent but is retroactive and is deemed to have been in force on and from February 27, 2004.

(5) Section 8 comes into force on assent but is retroactive and is deemed to have been in force on and from January 1, 2014.

(6) 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, 2015.

(7) Subsections 14(2) and 15(2), clause 17(1)(b) and subsection 17(3) come into force on assent but are retroactive and are deemed to have been in force on and from March 19, 2015.

(8) Section 16 comes into force on assent but is retroactive and is deemed to have been in force on and from June 26, 2013.

FOURTH SESSION

**Twenty-seventh
Legislature**

SASKATCHEWAN

B I L L

No. 178

An Act to amend *The Income Tax Act, 2000* and to
make a consequential amendment to *The Graduate
Retention Program Act*

Received and read the

First time

Second time

Third time

And passed

Honourable Ken Krawetz
