

BILL

No. 127

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, 2018*.

SS 2000, c I-2.01 amended

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

Section 5 amended

3 **Clause 5(1)(a) is amended by striking out “8(3.1)(a), 8(3.2)(a), 8(3.3)(a) or 8(3.4)(a)” and substituting “8(3.1)(a) or 8(3.2)(a)”.**

Section 8 amended

4(1) **Subsection 8(3.2) is amended in the portion preceding clause (a) by adding “and subsequent taxation years” after “year”.**

(2) **Subsections 8(3.3) and (3.4) are repealed.**

(3) **Subsection 8(4) is amended in the description of the variable TS by striking out “(3.1), (3.2), (3.3) or (3.4)” and substituting “(3.1) or (3.2)”.**

Section 9 amended

5 **Subsection 9(1) is amended:**

(a) **by adding “and” after clause (d);**

(b) **in clause (e) by adding “and subsequent taxation years” after “year”;**

(c) **by striking out “and” after clause (f); and**

(d) **by repealing clauses (f) and (g).**

Section 10 amended

6 **Subsection 10(2) is amended by striking out “Subsections 118(4), (5) and (6)” and substituting “Subsections 118(4) to (6)”.**

Section 14 amended

7 **Section 14 is amended in the portion preceding the formula by adding “before 2017” after “taxation year”.**

New section 14.1**8 The following section is added after section 14:****“In-home care of relative credit—2017 and subsequent taxation years**

14.1 For the purpose of computing the tax payable pursuant to this Act for the 2017 taxation year and subsequent taxation years, there may be deducted an in-home care of relative credit by an individual who, alone or jointly with one or more persons, maintains a self-contained domestic establishment that is the ordinary place of residence of the individual and of a particular person:

- (a) who has attained the age of 18 years before the end of the taxation year;
- (b) who is:
 - (i) the individual’s child or grandchild; or
 - (ii) resident in Canada and is the parent, grandparent, brother, sister, aunt, uncle, nephew or niece of the individual or of the individual’s spouse or common-law partner; and
- (c) who is:
 - (i) the individual’s parent or grandparent and has attained the age of 65 years before the end of the taxation year; or
 - (ii) dependent on the individual because of the particular person’s mental or physical infirmity;

the amount D calculated in accordance with the following formula:

$$D = AP \times (\$9,464 + \$16,164 - PI)$$

where:

AP is the appropriate percentage for the taxation year; and

PI is the greater of \$16,164 and the particular person’s income for the year”.

Section 15 amended

9 Section 15 is amended in the portion preceding the formula by adding “before 2017” after “taxation year”.

New section 15.1**10 The following section is added after section 15:****“Infirm dependant credit—2017 and subsequent taxation years**

15.1 For the purpose of computing the tax payable pursuant to this Act for the 2017 taxation year and subsequent taxation years, there may be deducted an infirm dependant credit by an individual with respect to each dependant of the individual who:

- (a) attained the age of 18 years before the end of the taxation year; and
- (b) was dependent on the individual because of the dependant’s mental or physical infirmity;

the amount E calculated in accordance with the following formula:

$$E = AP \times (\$9,464 + \$6,715 - PI)$$

where:

AP is the appropriate percentage for the taxation year; and

PI is the greater of \$6,715 and the dependant's income for the year".

Section 16 amended

11 Section 16 is amended in the portion preceding the formula by adding "before 2017" after "taxation year".

New sections 16.1 and 16.2

12 The following sections are added after section 16:

"Additional amount credit—2017 and subsequent taxation years

16.1 For the purpose of computing the tax payable pursuant to this Act for the 2017 taxation year and subsequent taxation years by an individual who is entitled to deduct an equivalent-to-spouse credit pursuant to section 13 and who would also be entitled, but for section 16.2, to deduct an in-home care of relative credit pursuant to section 14.1 or an infirm dependant credit pursuant to section 15.1 with respect to the same dependant, there may be deducted an additional amount credit in an amount F calculated in accordance with the following formula:

$$F = N - C$$

where:

N is the amount D determined in accordance with section 14.1 with respect to that dependant or the amount E determined in accordance with section 15.1 with respect to that dependant, as the case may be; and

C is the amount C determined in accordance with section 13 with respect to that dependant.

"Limitations re section 14.1, 15.1 and 16 credits

16.2 Notwithstanding subsection 10(2), for the 2017 taxation year and subsequent taxation years:

(a) if an individual is entitled to a deduct a spousal credit pursuant to section 12 or an equivalent-to-spouse credit pursuant to section 13 for a taxation year with respect to any person, no infirm dependant credit may be deducted pursuant to section 15.1 by any individual for the taxation year with respect to the person;

(b) if an individual is entitled to deduct an in-home care of relative credit pursuant to section 14.1 for a taxation year with respect to any person, the person is deemed not to be a dependant of any individual for the taxation year for the purpose of the infirm dependant credit pursuant to section 15.1;

(c) if more than one individual is entitled to a deduction pursuant to section 15.1 for a taxation year with respect to the same person:

- (i) the total of all amounts so deductible for the taxation year shall not exceed the maximum amount that would be deductible for the taxation year by any one of those individuals for that particular person if that individual were the only individual entitled to deduct an amount for the taxation year because of that section for that particular person; and
- (ii) if the individuals cannot agree as to what portion of the amount each is to deduct, the federal minister may fix the portions”.

Section 21 amended

13 Subsection 21(3) is amended in the description of the variable C:

- (a) in clause (c) by adding “and subsequent taxation years” after “year”; and**
- (b) by repealing clauses (d) and (e).**

Section 32 amended

14 Section 32 is amended:

- (a) by striking “and” after clause (i);**
- (b) in clause (j):**
 - (i) in the portion preceding subclause (i) by striking out “and subsequent taxation years”; and**
 - (ii) in subclause (i) by striking out “23.173%” and substituting “24.162%”;**
- (c) by adding “and” after clause (j); and**
- (d) by adding the following clause after clause (j):**
 - “(j.1) for the 2019 taxation year and subsequent taxation years, the total of:
 - (i) 25.773% of any amount required by subparagraph 82(1)(b)(i) of the federal Act to be included in computing the individual’s income for the year; and
 - (ii) 39.95% of any amount required by subparagraph 82(1)(b)(ii) of the federal Act to be included in computing the individual’s income for the year”.

Section 36 amended

15 Subsection 36(1) is amended in the description of variable HP by striking out “8(3.1)(c), 8(3.2)(c), 8(3.3)(c) or 8(3.4)(c)” and substituting “8(3.1)(c) or 8(3.2)(c)”.

Section 42 amended

16 Clause 42(1)(b) is amended by striking out “15, 16” and substituting “14.1, 15, 15.1, 16, 16.1”.

Section 44 amended

17 Subclause 44(1)(b)(ii) is amended by striking out “15, 16” and substituting “14.1, 15, 15.1, 16, 16.1”.

Section 48 amended

18 Subsection 48(3) is amended by striking out “8(3.1)(c), 8(3.2)(c), 8(3.3)(c) or 8(3.4)(c)” and substituting “8(3.1)(c) or 8(3.2)(c)”.

Section 56.2 amended

19 Section 56.2 is amended:

(a) in the portion preceding the formula by adding “or 56.6, as the case may be,” after “section 56.5”; and

(b) in the description of variable C by adding “or 56.6, as the case may be” after “section 56.5”.

Section 56.3 amended

20 Section 56.3 is amended:

(a) in the portion preceding the formula by adding “or 56.6, as the case may be,” after “section 56.5”; and

(b) in the description of variable C_1 by adding “or 56.6, as the case may be” after “section 56.5”; and

(c) in the description of variable C_2 by adding “or 56.6, as the case may be” after “section 56.5”.

Section 56.5 amended

21 Section 56.5 is amended:

(a) in the portion preceding clause (a) by adding “before March 22, 2016” after “taxation year”;

(b) in clause (a):

(i) in subclause (i):

(A) by adding “and” after paragraph (D);

(B) by striking out “and” after paragraph (E); and

(C) by repealing paragraphs (E) and (F) and substituting the following:

“(E) for the period commencing on July 1, 2008 and ending on December 31, 2016, were read as a reference to \$500,000”;

(ii) in subclause (ii):

(A) by adding “and” after paragraph (D);

(B) by striking out “and” after paragraph (E); and

(C) by repealing paragraphs (E) and (F) and substituting the following:

“(E) for the period commencing on July 1 2008 and ending on December 31, 2016, were read as a reference to \$1,370”; **and**

(c) in clause (b):

- (i) by adding “and” after subclause (ix);
- (ii) by striking out “and” after subclause (x); and
- (iii) by repealing subclauses (x) and (xi) and substituting the following:

“(x) for the period commencing on January 1, 2009 and ending on December 31, 2016, 100% of the amount otherwise determined to be the corporation’s business limit for the purposes of paragraph 125(1)(c) of the federal Act”.

New section 56.6

22 The following section is added after section 56.5:

“Small business threshold—certain taxation years

56.6 For the purpose of determining the amount C in section 56.2 or the amounts C_1 and C_2 in section 56.3 with respect to a period in a taxation year after March 21, 2016:

(a) the amount determined pursuant to paragraph 125(1)(a) of the federal Act with respect to the corporation for the period in a taxation year is deemed to be the amount that would be determined pursuant to that paragraph if a reference to the amount in dollars in subsection 125(2) and paragraph 125(3)(a) of the federal Act:

- (i) for the period ending on December 31, 2017, were read as a reference to \$500,000; and
- (ii) for the period commencing on January 1, 2018, were read as a reference to \$600,000; and

(b) the amount of the corporation’s business limit determined pursuant to paragraph 125(1)(c) of the federal Act for a taxation year is deemed to be the following:

- (i) for the period ending on December 31, 2017, 100% of the amount otherwise determined to be the corporation’s business limit for the purposes of paragraph 125(1)(c) of the federal Act;
- (ii) for the period commencing on January 1, 2018, 120% of the amount otherwise determined to be the corporation’s business limit for the purposes of paragraph 125(1)(c) of the federal Act”.

New section 64.7

23 The following section is added after section 64.6:

“Saskatchewan Value-added Agriculture Incentive

64.7(1) In this section:

- (a) ‘**amalgamation**’ means an amalgamation as defined in subsection 87(1) of the federal Act;
- (b) ‘**eligible capital investment**’ means the amount of new capital expenditures as calculated by the minister responsible for the administration of *The Saskatchewan Value-added Agriculture Incentive Act* and set out on the SVAI eligibility certificate in accordance with section 8 of that Act;

(c) **‘eligible corporation’** means an eligible applicant that has been issued an SVAI eligibility certificate pursuant to subsection 8(1) of *The Saskatchewan Value-added Agriculture Incentive Act*;

(d) **‘rebate’** means the amount determined for a taxation year pursuant to subsection (6);

(e) **‘SVAI eligibility certificate’** means a certificate issued pursuant to section 8 of *The Saskatchewan Value-added Agriculture Incentive Act* by the minister responsible for the administration of that Act;

(f) **‘SVAI tax credit’** means the amount determined pursuant to subsection (5);

(g) **‘winding-up’** means the winding-up of a corporation to which subsection 88(1) of the federal Act applies.

(2) The minister may establish any procedures that the minister considers appropriate with respect to the manner in which the SVAI tax credit determined in accordance with subsection (5) and a rebate determined in accordance with subsection (6) are to be claimed.

(3) An eligible corporation that intends to apply for a rebate must submit to the minister a copy of its SVAI eligibility certificate and, for each taxation year in which the corporation wishes to claim a rebate, the eligible corporation must submit, in a form acceptable to the minister:

(a) a copy of its full T2 corporate income tax return, including all schedules;

(b) its Canada Revenue Agency notice of assessment or notice of reassessment for that taxation year; and

(c) any other information and records that the minister may require in order to determine the amount of the rebate.

(4) On receipt of an application pursuant to subsection (3), the minister may:

(a) if the minister is satisfied that the person applying for the rebate for a taxation year 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 (6) for the taxation year; or

(b) if the minister is satisfied that the person applying for the rebate for a taxation year is not entitled to a rebate, send a written notice of determination, and the reasons for the determination, to that person to that effect.

(5) The total amount of an eligible corporation’s SVAI tax credit with respect to an SVAI eligibility certificate is equal to the SVAI tax credit amount TC determined in accordance with the following formula:

$$TC = CI \times 15\%$$

where CI is the eligible capital investment amount set out on the SVAI eligibility certificate.

(6) Subject to subsection (7), the amount of an eligible corporation's rebate for a taxation year with respect to an SVAI eligibility certificate issued to the eligible corporation is equal to the lesser of:

- (a) the eligible corporation's tax otherwise payable pursuant to this Act for the taxation year; and
- (b) the amount R, if it is positive, calculated in accordance with the following formula:

$$R = TC - PD$$

where:

TC is the SVAI tax credit amount determined pursuant to subsection (5); and

PD is the sum of all amounts, each of which is an amount deducted pursuant to this section, from tax otherwise payable pursuant to this Act by the corporation for a preceding taxation year.

(7) Notwithstanding any of the other provisions of this section:

- (a) no rebate for a taxation year shall be granted that exceeds 20% of the SVAI tax credit amount with respect to an SVAI eligibility certificate in the taxation year in which the SVAI eligibility certificate was issued;
- (b) no rebate for the taxation year shall be granted that exceeds 30% of the SVAI tax credit amount with respect to an SVAI eligibility certificate in the taxation year following the taxation year in which the SVAI eligibility certificate was issued;
- (c) no rebate for a taxation year shall be granted that exceeds 50% of the SVAI tax credit amount with respect to an SVAI eligibility certificate in the second taxation year following the taxation year in which the SVAI eligibility certificate was issued;
- (d) no rebate is payable for a taxation year before 2018;
- (e) no rebate shall be granted after the tenth taxation year following the year in which the SVAI eligibility certificate was issued; and
- (f) if an SVAI eligibility certificate is suspended or cancelled pursuant to section 11 of *The Saskatchewan Value-added Agriculture Incentive Act*, the minister may terminate the corporation's eligibility for a rebate for all subsequent taxation years remaining in the rebate period.

(8) For the purposes of calculating the SVAI 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 one of its predecessor corporations had an SVAI tax credit, any portion of which was not deducted in any taxation year by that predecessor corporation in computing its tax otherwise payable pursuant to this Act.

(9) For the purpose of calculating the SVAI tax credit of a parent corporation, a subsidiary of which has been wound up, the parent corporation is deemed to be a continuation of its subsidiary if the subsidiary corporation had an SVAI tax credit, any portion of which was not deducted in any taxation year by the subsidiary corporation in computing its tax otherwise payable pursuant to this Act.

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- (10) 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.
- (11) If, after an initial determination has been made pursuant to subsection (10), 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 (10) that may be necessary to reflect any subsequent assessment or reassessment issued by the federal minister.
- (12) If the minister acts pursuant to subsection (11), the minister shall:
- (a) pay to the eligible corporation any additional rebate to which the 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.
- (13) If, after a rebate pursuant to this section is paid to an eligible corporation, it is 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 (12)(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 on which the amount or the excess amount was paid to the corporation to the day on which it is repaid to the minister.
- (14) Notwithstanding clause (13)(b), interest is not payable by an eligible corporation if the amount of the rebate or the excess amount as determined pursuant to subsection (11) 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.
- (15) A rebate overpayment mentioned in subsection (13) 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”.

New section 67.2**24 The following section is added after section 67.1:****“Saskatchewan Technology Start-up Incentive****67.2(1)** In this section:

- (a) **‘amalgamation’** means an amalgamation as defined in subsection 87(1) of the federal Act;
- (b) **‘eligible taxpayer’** means a person that has been issued an STSI tax credit certificate pursuant to subsection 10(1) of *The Saskatchewan Technology Start-up Incentive Act*;
- (c) **‘rebate’** means the amount determined for a taxation year pursuant to subsection (5);
- (d) **‘STSI tax credit certificate’** means a certificate issued for a taxation year pursuant to section 10 of *The Saskatchewan Technology Start-up Incentive Act* by the minister responsible for the administration of that Act;
- (e) **‘winding-up’** means the winding-up of a corporation to which subsection 88(1) of the federal Act applies.

(2) The minister may establish any procedures that the minister considers appropriate with respect to the manner in which the rebate determined in accordance with subsection (5) is to be claimed.

(3) An eligible taxpayer that intends to apply for a rebate must submit to the minister a copy of its STSI tax credit certificate for the taxation year and, for each taxation year in which the taxpayer wishes to claim a rebate, the eligible taxpayer must submit, in a form acceptable to the minister:

- (a) a copy of its full income tax return, including all schedules;
- (b) its Canada Revenue Agency notice of assessment or notice of reassessment for that taxation year; and
- (c) any other information and records that the minister may require in order to determine the amount of the rebate.

(4) On receipt of an application pursuant to subsection (3), the minister may:

- (a) if the minister is satisfied that the person applying for the rebate for a taxation year is an eligible taxpayer and has complied with this section, grant a rebate equal to the amount of the taxpayer’s rebate determined pursuant to subsection (5) for the taxation year; or
- (b) if the minister is satisfied that the person applying for the rebate for a taxation year is not entitled to a rebate, send a written notice of determination, and the reasons for the determination, to that person to that effect.

(5) Subject to subsection (6), the amount of an eligible taxpayer's rebate for a taxation year with respect to an STSI tax credit certificate issued to the eligible taxpayer is equal to the lesser of:

- (a) the taxpayer's tax otherwise payable pursuant to this Act for the taxation year; and
- (b) the amount R, if it is positive, calculated in accordance with the following formula:

$$R = TB - PD$$

where:

TB is the tax credit amount set out on the STSI tax credit certificate;

PD is the sum of all amounts, each of which is an amount rebated with respect to the STSI tax credit certificate pursuant to this section for a preceding taxation year.

(6) Notwithstanding any of the other provisions of this section:

- (a) the amount of a tax credit allowed with respect to an STSI tax credit certificate is required to be rebated to the eligible taxpayer in the taxation year that the STSI tax credit certificate was issued to the eligible taxpayer to the extent that the taxpayer has tax otherwise payable in the taxation year against which the amount of the tax credit can be rebated;
- (b) no rebate is payable for a taxation year before 2018;
- (c) no rebate for a taxation year with respect to an STSI tax credit certificate shall be provided that exceeds \$140,000;
- (d) no rebate for a taxation year with respect to an STSI tax credit certificate shall be provided after the third taxation year following the year in which the STSI tax credit certificate was issued; and
- (e) if an STSI tax credit certificate is revoked pursuant to section 10 of *The Saskatchewan Technology Start-up Incentive Act*, the minister may terminate the person's eligibility for a rebate for all subsequent taxation years.

(7) For the purposes of calculating the rebate 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 one of its predecessor corporations was entitled to a rebate, any portion of which was not rebated to that predecessor corporation in any taxation year.

(8) For the purpose of calculating the rebate of a parent corporation, a subsidiary of which has been wound up, the parent corporation is deemed to be a continuation of its subsidiary if the subsidiary corporation was entitled to a rebate, any portion of which was not rebated to the subsidiary corporation in any taxation year.

(9) The minister shall initially determine the amount of the rebate payable pursuant to this section to an eligible taxpayer for a taxation year by reference to the most recent assessment of tax payable by the eligible taxpayer 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 taxpayer for the taxation year pursuant to this Act:

(a) the eligible taxpayer 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 taxpayer's rebate determined pursuant to subsection (9) 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 taxpayer any additional rebate to which the taxpayer is entitled pursuant to this section for the taxation year, without interest; or

(b) serve a written demand on the eligible taxpayer for the repayment of the rebate or the excess amount of the rebate to which the taxpayer is not entitled for the taxation year.

(12) If, after a rebate pursuant to this section is paid to an eligible taxpayer, it is determined that the taxpayer received a rebate to which the taxpayer was not entitled or received an amount greater than the amount of the rebate to which the taxpayer was entitled or if a written demand is served on the taxpayer pursuant to clause (11)(b), the taxpayer 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 on which the amount or the excess amount was paid to the taxpayer to the day on which it is repaid to the minister.

(13) Notwithstanding clause (12)(b), interest is not payable by an eligible taxpayer if the amount of the rebate or the excess amount as determined pursuant to subsection (10) is the result of the eligible taxpayer 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

25 Subsection 68(3) is amended by adding “, 64.6, 64.7, 67.2” after “64.5”.

Coming into force

26(1) Subject to subsections (2) and (3), this Act comes into force on assent, but is retroactive and is deemed to have been in force on and from January 1, 2018.

(2) Sections 6 to 12, 16 and 17 come into force on assent, but are retroactive and are deemed to have been in force on and from January 1, 2017.

(3) Sections 19 to 22 come into force on assent, but are retroactive and are deemed to have been in force on and from March 22, 2016.

SECOND SESSION

Twenty-eighth Legislature

SASKATCHEWAN

B I L L

No. 127

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

Received and read the

First time

Second time

Third time

And passed

Honourable Donna Harpauer
