

**EXPLANATORY NOTES**  
**BILL**  
**No. 22**  
**An Act to amend *The Income Tax Act, 2000* and to**  
**repeal *The Active Families Benefit Act***

**Clause**  
**of Bill**

1        *The Income Tax Amendment Act, 2016*

2        *The Income Tax Act, 2000*

3        Existing Provision    section 9

**Rate of tax on inter vivos trusts**

**9(1)** Notwithstanding section 8 but subject to subsections (3) and (4), the tax payable by an individual described in clause 6(1)(a) that is an inter vivos trust on the taxable income of the trust for a taxation year:

- (a) for the 2001 taxation year is 16% of the taxable income;
- (b) for the 2002 taxation year is 15.5% of the taxable income; and
- (c) for the 2003 taxation year and subsequent taxation years is 15% of the taxable income.

(2) Notwithstanding section 8 but subject to subsections (3) and (4), the tax payable for a taxation year by an individual described in clause 6(1)(b) or (c) that is an inter vivos trust is the amount T calculated in accordance with the following formula:

$$T = TS \times \frac{A}{B}$$

where:

TS is the amount of tax that would be payable for the taxation year by the trust on the trust's taxable income for the year, determined pursuant to subsection (1) if the trust were an individual described in clause 6(1)(a);  
A is the trust's income earned in the taxation year in Saskatchewan; and  
B is the trust's income for the year.

(3) Subsection 122(2) of the federal Act applies for the purposes of this section.

(4) Notwithstanding clause 3(14)(a), in applying subsection 122(2) of the federal Act for the purposes of this section, the reference to Canada in paragraph 122(2)(b) is not to be read as a reference to Saskatchewan.

2000, c.I-2.01, s.9; 2002, c.32, s.6.

### Explanation

The Canada Revenue Agency has requested an amendment to the provincial Act to conform to an amendment that was made to the federal *Income Tax Act*, retroactive to January 1, 2016.

The federal Act was amended to apply the top federal tax rate to grandfathered inter vivos trusts, trusts created by will, and certain estates beginning in the 2016 tax year. These trusts were previously able to use the graduated or marginal tax rates to calculate tax payable. Saskatchewan is required to remain harmonized with federal Act changes, therefore references to “inter vivos” trust must now be deleted from Section 9.

#### 4 Existing Provision section 19.2

##### **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.

2012, c.17, s.3.

### Explanation

The 2016-17 Budget announced that, effective May 1, 2016, beneficiaries of the Graduate Retention Program (GRP) will have ability to borrow up to \$10,000 of their future provincial GRP tax credits as an interest-free loan to use towards the down payment on their first home in the province. Section 19.2 must be updated to reflect government’s intention that individuals that receive a loan under the Graduate Retention Program First Home Plan are not allowed to also claim the First-time homebuyers’ credit.

#### 5 Existing Provision New section 21

##### **Charitable and other gifts credit**

**21(1)** Subject to subsections (2) to (4), for the purpose of computing the tax payable pursuant to this Act for a taxation year by an individual, there may be deducted a credit with respect to charitable and other gifts described in section 118.1 of the federal Act in an amount determined in accordance with that section of the federal Act.

(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.

(3) In applying the calculation pursuant to subsection 118.1(3) of the federal Act for the purposes of subsection (1):

(a) B is the lesser of \$200 and the individual's total gifts for the taxation year; and

(b) C is the percentage set out in clause 8(1)(c), 8(2)(c) or 8(3)(c), as the case may be, for the taxation year.

(4) The amount of the total gifts claimed by an individual pursuant to this section for a taxation year must be the same as the amount of the total gifts claimed by the individual pursuant to section 118.1 of the federal Act for the taxation year.

2000, c.I-2.01, s.21; 2001, c.17, s.9; 2015, c.13, s.4.

### Explanation

This is a technical amendment related to amendments made by the federal government to the federal *Income Tax Act*. For the purposes of the provincial charitable donation tax credit, the provincial Act has previously adopted the federal formula using provincial tax rates. The federal formula has changed to accommodate the new top federal tax rate and longer applies for provincial purposes. Section 21 is being amended to create a new provincial formula that exactly replicates the former calculation.

## 6 Existing Provision section 32

### **Dividend tax credit**

**32** There may be deducted from the tax otherwise payable pursuant to this Act for a taxation year by an individual resident in Saskatchewan on the last day of the taxation year a dividend credit equal to:

...

(g) for the 2014 taxation year and subsequent taxation years, the total of:

(i) 22.29% 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.

2006, c.40, s.3; 2009, c.18, s.3; 2011, c.7, s.7; 2014, c.14, s.3;

### Explanation

The federal government has reduced the federal small business tax rate to 10.5% and has made corresponding adjustments to the dividend gross-up factor and federal dividend tax credit. As a result of the linkage between the federal and provincial income tax systems, the federal change to the gross-up factor would automatically reduce the value of the provincial dividend tax credit. In order to maintain the current level of provincial tax on non-eligible dividends, Saskatchewan is making corresponding adjustments to the provincial dividend tax credit for these dividends.

7

Existing Provision section 39.2

**Active families benefit amount**

**39.2(1)** In this section:

- (a) **“active families benefit amount”** means an active families benefit amount determined in accordance with section 3 of *The Active Families Benefit Act*;
- (b) **“eligible child”** means an eligible child as defined in *The Active Families Benefit Act*;
- (c) **“eligible individual”** means, with respect to a taxation year, an individual who:
  - (i) was an eligible individual, as defined in *The Active Families Benefit Act*, with respect to an eligible child for that taxation year;
  - (ii) was resident in Saskatchewan on the last day of the taxation year; and
  - (iii) has an adjusted income for the taxation year as defined in clause 38(1)(a) that does not exceed \$60,000.

(2) Subject to subsection (3), an eligible individual may claim an active families benefit amount for a taxation year with respect to each child who is an eligible child of the eligible individual for that taxation year by filing with the eligible individual's return of income for the taxation year the form described in subsection 4(4) of *The Active Families Benefit Act*.

(3) Only one individual may claim an active families benefit amount with respect to a child for a taxation year.

(4) If an eligible individual claims an active families benefit amount in accordance with subsection (2) for a taxation year with respect to an eligible child, an amount equal to the active families benefit amount of the eligible individual for the 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.

(5) 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.

2008, c.13, s.6; 2011, c.7, s.8; 2015, c.13, s.11.

Explanation

The 2016-17 Budget announced that, effective from the 2016 taxation year, the Active Family Benefit is eliminated. Section 39.2 is therefore being repealed.

8

Existing Provision section 42

**Credits in year of bankruptcy**

**42(3)** Notwithstanding sections 39.1 and 39.2 but subject to subsection (4), for the purpose of computing amounts deemed pursuant to subsections 39.1(9) and 39.2(4) to have been paid by an individual on account of the individual's tax payable pursuant to this Act for a taxation year that ends in a calendar year in which the individual becomes bankrupt, the individual is allowed, of the amounts that the individual is deemed to have paid pursuant to any of those provisions on account of the individual's tax payable pursuant to this Act for a taxation year, only the parts that can reasonably be considered applicable to the taxation year.

(4) The total of the amounts deemed to have been paid in accordance with subsection (3) for all taxation years of the individual in the calendar year pursuant to any of the provisions mentioned in subsection (3) cannot exceed the amount that would have been deemed to have been paid pursuant to that provision with respect to the calendar year if the individual had not become bankrupt.

2000, c.I-2.01, s.42; 2007, c.27, s.4; 2008, c.13, s.8; 2012, c.17, s.7.

### Explanation

Section 42 outlines the tax filing process when claiming tax credits in the year of bankruptcy. Subsections (3) and (4) deal with the refundable AFB and GRP tax credits. As these refundable tax credits will no longer exist, subsections (3) and (4) can also be repealed.

9

### Existing Provision section 64.3

#### **Manufacturing and processing exporter hiring incentive**

**64.3(1)(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 64.3;

(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.

(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.

2015, c.13, s.14.

### Explanation

The 2015-16 Budget introduced Manufacturing and Processing Exporter Hiring Incentive. Technical amendments are required to clarify the definition of ‘contractors’ and to also introduce an additional clause to clarify that the movement of employees between corporations that do not result in new Saskatchewan jobs will not qualify for the tax incentive.

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Existing Provision section 64.4

**Manufacturing and processing exporter head office incentive**

**64.4(1) (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;

(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 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.

(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.

2015, c.13, s.14.

Explanation

The 2015-16 Budget introduced Manufacturing and Processing Exporter Head Office Incentive. Technical amendments are now required to clarify the definition of ‘contractors’ and to also introduce an additional clause to clarify that the movement of employees between corporations that do not result in new Saskatchewan jobs will not qualify for the tax incentive.

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Existing Provision section 64.5

**Primary steel production rebate**

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

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

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

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);

(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*;

2015, c.13, s.14.

#### Explanation

The Primary Steel Production Rebate was introduced in the 2015-16 Budget to encourage new investment in primary steel production in Saskatchewan. The tax incentive provides a rebate of the new or incremental Saskatchewan Corporation Income Tax payable by the corporation as a result of the new investment. The incremental tax resulting from the capital investment is determined as a pro-rata share of an eligible producer’s tax liability based on the incremental tonnes of steel produced as a result of the capital investment. Technical amendments are being made to clarify that the rebate calculation will focus on the new product lines that result from a capital investment, rather than on the total production of a company.

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#### Existing Provision

S.S. 2008, c.A-4.01.

#### Explanation

This section repeals *The Active Families Benefit Act*.

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#### Existing Provision

None.

#### Explanation

This is the coming into force provision.