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Province of Prince Edward Island
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CHAPTER 48

(Bill No. 58)

An Act to Amend the Income Tax Act (No. 2)

Hon. Darlene Compton
Minister of Finance

GOVERNMENT BILL

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Acting Queen's Printer
Charlottetown, Prince Edward Island



CHAPTER 48

AN ACT TO AMEND THE INCOME TAX ACT (NO. 2)

(Assented to July 14, 2020)

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. (1) Clauses 9(1)(a), (b) and (c) of the *Income Tax Act R.S.P.E.I. 1988, Cap. I-1*, are repealed and the following substituted:

- (a) in the case of an individual who at any time in the year is a married person or a person who is in a common-law partnership who supports the individual's spouse or common-law partner and is not living separate and apart from the spouse or common-law partner by reason of a breakdown of their marriage or common-law partnership, an amount equal to the total of
- (i) \$10,500, and
 - (ii) the amount determined by the formula

$$\$8,918 - (C - \$891)$$

where

C is the greater of \$891 and the income of the individual's spouse or common-law partner for the year or, where the individual and the individual's spouse or common-law partner are living separate and apart at the end of the year because of a breakdown of their marriage or common-law partnership, the spouse's or common-law partner's income for the year while married or in a common-law partnership and not so separated;

- (b) in the case of an individual who does not claim a deduction for the year because of clause (a) and who, at any time in the year,
- (i) is
 - (A) a person who is unmarried and who does not live in a common-law partnership, or
 - (B) a person who is married or in a common-law partnership, who neither supported nor lived with the person's spouse or common-law partner and who is not supported by that spouse or common-law partner, and
 - (ii) whether alone or jointly with one or more other persons, maintains a self-contained domestic establishment (in which the individual lives) and actually supports in that establishment a person who, at that time, is
 - (A) except in the case of a child of the individual, resident in Canada,

- (B) wholly dependent for support on the individual, or the individual and the other person or persons, as the case may be,
- (C) related to the individual, and
- (D) except in the case of a parent or grandparent of the individual, either under eighteen years of age or so dependent by reason of mental or physical infirmity,

an amount equal to the total of

- (iii) \$10,500, and
- (iv) the amount determined by the formula

$$\$8,918 - (D - \$891)$$

where

D is the greater of \$891 and the dependent person's income for the year;

- (c) except in the case of an individual entitled to a deduction because of clause (a) or (b), \$10,500;

(2) Subsection 9(3) of the Act is repealed and the following substituted:

Pension credit

- (3) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted an amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is the lesser of

- (a) \$1,000; and
- (b) the amount determined under paragraph (b) of the description of B in subsection 118(3) of the federal Act and used in computing the individual's deduction under that section for the taxation year.

2. The Act is amended by the addition of the following after section 11:

11.1 Children's wellness tax credit

- (1) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted the amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the taxation year; and

B is the total of all amounts each of which is, in respect of a qualifying child of the individual for the taxation year, the lesser of \$500 and the amount determined by the formula

$$C - D$$

where



C is the total of all amounts each of which is an amount paid in the taxation year by the individual, or by the individual's spouse or common-law partner, that is an eligible expense for an artistic, cultural, recreational or developmental activity or a physical activity in respect of the qualifying child of the individual; and

D is the total of all amounts that any person is or was entitled to receive, each of which relates to an amount included in computing the value of C in respect of the qualifying child, that is the amount of a reimbursement, allowance or any other form of assistance, other than an amount that is included in computing the income for any taxation year of that person and that is not deductible in computing the taxable income of that person.

Apportionment of credit

- (2) Where more than one individual is entitled to a deduction under this section for a taxation year in respect of a qualifying child, the total of all amounts so deductible shall not exceed the maximum amount that would be so deductible for the year by any one of those individuals in respect of that qualifying child if that individual were the only individual entitled to deduct an amount for the year under this section in respect of that qualifying child, and if the individuals cannot agree as to what portion of the amount each can so deduct, the Minister may fix the portions.

Definitions

- (3) The following definitions apply in this section:
- (a) “**artistic, cultural, recreational or developmental activity**” means a supervised activity, other than a physical activity, that is suitable for children and
- (i) is intended to contribute to a child's ability to develop creative skills or expertise, acquire and apply knowledge, or improve dexterity or coordination, in an artistic or cultural discipline, including
 - (A) literary arts,
 - (B) visual arts,
 - (C) performing arts,
 - (D) music,
 - (E) media,
 - (F) languages,
 - (G) customs, and
 - (H) heritage,
 - (ii) provides a substantial focus on wilderness and the natural environment,
 - (iii) assists with the development and use of intellectual skills,
 - (iv) includes structured interaction among children where supervisors teach or assist children to develop interpersonal skills, or
 - (v) provides enrichment or tutoring in academic subjects;
- (b) “**eligible expense**” in respect of a qualifying child of an individual for a taxation year means the amount of a fee paid to a qualifying entity, other than an amount paid to a person who is, at the time the amount is paid, the individual's spouse or common-law partner or another individual who is under the age of 18 years, to the extent that the fee is attributable to the cost of registration or membership of the qualifying child in an eligible program or membership in an eligible organization and, for this purpose, that cost
- (i) includes the cost to the qualifying entity of the program in respect of its administration, instruction, rental of required facilities, and uniforms and

- equipment that are not available to be acquired by a participant in the program for an amount less than their fair market value at the time, if any, they are so acquired, and
- (ii) does not include
 - (A) the cost of accommodation, travel, food or beverages,
 - (B) any amount deductible in computing any person's income for any taxation year, or
 - (C) any amount included in computing a deduction from any person's tax payable under any Part of this Act, for any taxation year;
 - (c) **“eligible program”** means a program of artistic, cultural, recreational or developmental activity or physical activity that is not part of a school's curriculum and is
 - (i) a weekly program of a duration of eight or more consecutive weeks in which all or substantially all of the activities include a significant amount of artistic, recreational or developmental activity or physical activity,
 - (ii) a program of a duration of five or more consecutive days in which more than 50% of the daily activities include a significant amount of artistic, recreational or developmental activity or physical activity,
 - (iii) a program of a duration of eight or more consecutive weeks offered to children by an organization in circumstances where a participant may select from a variety of activities offered as part of the program, if
 - (A) more than 50% of the activities offered to children include a significant amount of artistic, recreational or developmental activity or physical activity, or
 - (B) more than 50% of the time scheduled for the activities offered to children is for activities that include a significant amount of artistic, recreational or developmental activity or physical activity, or
 - (iv) a program specified in subsection (5) or (6);
 - (d) **“organization”** means a club, association or similar organization;
 - (e) **“physical activity”** means a supervised activity suitable for children, other than an activity where a child rides on or in a motorized vehicle as an essential component of that activity, that contributes to cardio-respiratory endurance and to one or more of the following:
 - (i) muscular strength,
 - (ii) muscular endurance,
 - (iii) flexibility,
 - (iv) balance;
 - (f) **“qualifying child”** in respect of an individual for a taxation year means a child of the individual who is under 18 years of age at the beginning of the taxation year;
 - (g) **“qualifying entity”** means a person or partnership that offers one or more eligible programs of artistic, cultural, recreational or developmental activity or physical activity.

Horseback riding

- (4) For the purposes of the definition of “physical activity”, horseback riding is deemed to be an activity that contributes to cardio-respiratory endurance and to one or more of muscular strength, muscular endurance, flexibility and balance.



Mixed-use facility

- (5) For the purpose of the definition of “eligible expense”, an eligible program of artistic, cultural, recreational or developmental activity or physical activity includes that portion of a program of activities offered by a mixed-use facility that is
- (a) the percentage of those activities offered to children by the mixed-use facility that are activities that include a significant amount of artistic, cultural, recreational or developmental activity or physical activity; or
 - (b) the percentage of the time scheduled for activities in the program that is scheduled for activities that include a significant amount of artistic, cultural, recreational or developmental activity or physical activity,
- where the program
- (c) does not meet the requirements of subclause (3)(c)(iii);
 - (d) is not part of a school’s curriculum;
 - (e) is of a duration of eight or more consecutive weeks; and
 - (f) is offered to children in circumstances where a participant may select amongst a variety of activities.

Membership

- (6) For the purpose of the definition of “eligible expense”, an eligible program of artistic, cultural, recreational or developmental activity or physical activity includes that portion of a membership in an organization that is the percentage of all the activities offered to children by the organization that are activities that include a significant amount of artistic, cultural, recreational or developmental activity or physical activity, where the membership
- (a) does not meet the requirements of subclause (3)(c)(iii);
 - (b) is not part of a school’s curriculum; and
 - (c) is of a duration of eight or more weeks.

3. (1) The Act is amended in the following provisions by the addition of the words “11.1,” after the words “9,”:

- (a) **subsections 15(1) and (1.1);**
- (b) **section 18.**

(2) The Act is amended in the following provisions by the addition of the words “11.1,” after the words “11,”:

- (a) **section 22;**
- (b) **section 25;**
- (c) **section 26.**

4. Section 20 of the Act is amended by the deletion of the words “21%” and the substitution of the words “15%”.

5. Section 23 of the Act is amended by the deletion of the words “sections 12,” and the substitution of the words “sections 11.1, 12,”.

6. **Clause 32(2)(g) of the Act is amended by the deletion of the words “\$18,000” and the substitution of the words “\$19,000”.**
7. **Section 33.1 of the Act is amended by the deletion of the words “section 15.1,” and the substitution of the words “section 11.1, 15.1.”**
8. **The Act is amended by the addition of the following after section 36.3:**

36.4. Definitions

- (1) In this section,
 - (a) **“candidate”** means a person who has been officially nominated as a candidate pursuant to the *Election Act* R.S.P.E.I. 1988, Cap. E-1.1;
 - (b) **“donation in kind”** means any property other than money given or provided to or for the benefit of a recognized party or a candidate without compensation from the recognized party or candidate, and includes services of an employee of the taxpayer provided to a recognized party or a candidate without compensation from the recognized party or candidate;
 - (c) **“individual”** means a person other than a corporation and, notwithstanding the definition “individual” in section 1, does not include a trust or estate;
 - (d) **“registered party”** means a political party registered under section 24 of the *Election Act*.

Deduction for political contributions

- (2) In respect of the aggregate amount of contributions, other than donations in kind, made by a taxpayer who is an individual to candidates and recognized parties during the taxation year, that taxpayer may deduct from the amount of tax which that taxpayer would otherwise be required to pay under this Act an amount equal to the lesser of
 - (a) the amount of the tax payable; and
 - (b) where the aggregate amount contributed
 - (i) does not exceed \$100, 75% of the aggregate amount contributed,
 - (ii) exceeds \$100 but does not exceed \$550, \$75 plus 50% of the amount by which the aggregate amount contributed exceeds \$100 but does not exceed \$550, and
 - (iii) exceeds \$550, the lesser of
 - (A) \$300 plus 33 $\frac{1}{3}$ % of the amount by which the aggregate amount contributed exceeds \$550, and
 - (B) \$500.

Receipts

- (3) Payment of each amount that is included in the aggregate amount of contributions in respect of which a deduction is claimed under subsection (2) shall be proved by filing with the Minister receipts containing prescribed information, signed by the official agent of the recognized party or the official agent of the candidate, as the case may be.
9. **Subsection 37.11.4(2) of the Act is amended by the addition of the words “and ends before January 1, 2021” after the words “after January 1, 2020”.**

10. The Act is amended by the addition of the following after section 37.11.4:

37.11.5 Where corporation eligible for small business deduction on or after January 1, 2021

- (1) Notwithstanding subsection 37(1), where in a taxation year a corporation, other than a credit union or a corporation to which subsection 137.1(9) of the federal Act applies, is eligible for a deduction under subsection 125(1) of the federal Act, the tax payable by that corporation under this Part for that taxation year is equal to the amount determined by the formula

$$(A \times B \times C/D) + (E \times (C - (B \times C/D)))$$

where

A is 2.0%;

B is the least of the amounts determined pursuant to paragraphs 125(1)(a), (b) and (c) of the federal Act in respect of the corporation for the taxation year;

C is the corporation's taxable income earned in the year in Prince Edward Island;

D is the corporation's taxable income earned in the year in a province; and

E is 16%.

Application

- (2) Subsection (1) applies in respect of a corporation's taxation year which begins on or after January 1, 2021.

Transitional

- (3) Where a corporation to which subsection (1) applies has a taxation year part of which is before January 1, 2021, the tax payable for the taxation year shall be calculated
- (a) by dividing the taxation year into two notional taxation years, the first ending on December 31, 2020, and the second beginning on January 1, 2021;
 - (b) by apportioning the taxable income earned in the taxation year between the two notional taxation years proportionately according to the number of days in each;
 - (c) by calculating
 - (i) tax for the first notional taxation year in accordance with subsection 37.11.4(1), and
 - (ii) tax for the second notional taxation year in accordance with subsection 37.11.5(1); and
 - (d) by adding together the amounts determined under clause (c).

11. Section 42 of the Act is repealed.

12. (1) Subject to subsection (2), this Act comes into force on January 1, 2021.

(2) Subsection 1(2) of this Act is deemed to have come into force on January 1, 2015.

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SIGNATURES:

Honourable Antoinette Perry, Lieutenant Governor

Honourable Colin LaVie, Speaker

Joseph Jeffrey, Clerk

Hon. Darlene Compton
Minister of Finance

GOVERNMENT BILL

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