

Amendments to the *Corporation Capital Tax Act*, 1994-2005

Corporation Capital Tax Act

This bulletin consolidates the amendments to the *Corporation Capital Tax Act*, previously released in several separate bulletins over the years 1994-2005.

The information in this bulletin is provided for your convenience and guidance and is not a replacement for the legislation. The *Corporation Capital Tax Act* and Regulations can be found on the web at www.gov.bc.ca/sbr

Updated: September 2005

This bulletin has been corrected to show that the commencement date of the investment allowance for banks and trust companies is consistent with the legislation - Page 2

In this issue...

- ***February 2005***
- ***May 2004***
- ***February 2004***
- ***February 2003***
- ***February 2002***
- ***July 2001***
- ***March 2001***
- ***March 2000***
- ***March 1999***
- ***March 1998***
- ***March 1994***

FEBRUARY 2005

Investment Allowance Deduction

Effective April 1, 2005, there is an additional requirement for claiming an investment allowance. A financial corporation may only claim an investment allowance on its investment in shares of another financial corporation with a permanent establishment in British Columbia, if it has the same taxation year end as the financial corporation in which it is investing.

Retention of Books and Records

A financial corporation must retain its books and records for the latest of:

- seven years after the date of delivery of a return for the taxation year;

- the date a waiver under section 29 ceases to have effect;
- 90 days after the date a revoked waiver under section 29 ceases to have effect, and
- until the date all appeals have been exhausted.

There is an administrative penalty for failing to retain books and records of \$25 per day to a maximum of \$2,500. Previously, the penalty, on conviction, was not less than \$10 per day with no maximum penalty amount.

Corporation Capital Tax Regulation

For the purpose of allocating net paid up capital by a bank or credit union to a jurisdiction outside of British Columbia, the Regulation is amended to provide the following definitions.

- Salaries and wages are defined as having the same meaning as the *Income Tax Act* (Canada); and
- Employee is defined to include directors, which is also consistent with the *Income Tax Act* (Canada).

MAY 2004

Reassessment Period Increased

British Columbia can reassess a taxation year if another province or the federal government makes an adjustment that impacts the tax payable under the *Corporation Capital Tax Act*. Reassessment can occur within one year of British Columbia being notified of the adjustment, even if the reassessment is beyond the six year limitation period. This amendment affects general corporations,

investment dealers and financial corporations.

Series of Transactions

The Act is amended to provide a definition of “series of transactions” to harmonize with similar provisions in the *Income Tax Act* (Canada). The new definition ensures that any transaction undertaken in preparation of a series of planned transactions, are considered part of the series for the purposes of the anti-avoidance provisions in the Act.

FEBRUARY 2004

British Columbia Eligible Expenditure Deduction

The Act has been clarified to ensure that only capital assets that are used *directly* in a qualifying activity are eligible for the deduction.

FEBRUARY 2003

Threshold Amount

The net paid up capital exemption threshold, which determines whether a corporation is subject to corporation capital tax, will increase from the current level of \$5 million to \$10 million for taxation years ending after March 31, 2003. The threshold increase applies to financial corporations only.

Authorized Foreign Banks

The legislation is amended to preclude authorized foreign banks from allocating their capital to jurisdictions outside of Canada. The regulations to the Act are expanded to include allocation rules specific to authorized foreign banks. The new allocation rules are based on those of domestic banks except that “salaries and wages” and “loans and deposits” must be in respect of the authorized foreign banks’ Canadian operations.

The amendments are retroactive to June 6, 2000, the date upon which provisions for authorized foreign banks were introduced in the Act.

FEBRUARY 2002

Streamlined Act

As announced on July 30, 2001, the Act will no longer apply to general corporations and investment dealers for taxation years that commence on or after September 1, 2002.

Therefore, the following amendments to the Act will be in effect for taxation years that commence on or after September 1, 2002.

- The legislation will be streamlined by removing all references and calculations for general corporations and investment dealers.

- Special calculations for partnership interests will be eliminated.
- A financial corporation will be defined, for the purposes of the Act, as follows:

(a) a bank, trust company or credit union,
and

(b) the agent, assignee, trustee, liquidator, receiver or other official in whose hands, or under whose control, all or any part of the property of a bank, trust company or credit union is placed.

Investment Allowance

To ensure that all financial corporations are treated consistently under the Act, an investment allowance will be available for banks and trust companies. Banks and trust companies will be eligible for an investment allowance for taxation years ending on or after September 1, 2002; credit unions will continue to be eligible for an investment allowance. Financial corporations with shares in other financial corporations that have a permanent establishment in British Columbia are eligible for the allowance. The allowance, which is a deduction from total paid up capital, will be calculated as the proportion of the financial institution’s total paid up capital that the carrying value of the qualifying shares bear to the total assets of the financial corporation.

Authorized Foreign Banks

Effective immediately, the formula for calculating the aggregate paid up capital of authorized foreign banks under the Act is adjusted to ensure branches of foreign banks are taxed comparable with domestic banks of a similar size. The formula is adjusted to require certain capital amounts, deducted from capital under the capital adequacy requirements of the Superintendent of Financial Institutions, to be added back for the purposes of calculating tax under the Act. The formula also allows for a deduction corresponding to the subordinated debt of an authorized foreign bank. Subordinated debt is not included in the tax base for domestic banks.

JULY 2001

General Corporations

The tax rate for general corporations and investment dealers is reduced as follows:

Effective September 1, 2001 0.15%

Effective September 1, 2002 0.0%

For general corporations and investment dealers with taxation years commencing on or after September 1, 2002, the *Corporation Capital Tax Act* will no longer apply and all applicable sections will be removed effective September 1, 2003. Tax rates and formulas in the Act have been amended to reflect these changes.

Tax calculations must be prorated using the applicable rate for taxation year ends that straddle the September 1, 2001 and September 1, 2002 dates.

Example 1:

Corporation with a January 1, 2001 - December 31, 2001 taxation year and net BC paid up capital of \$10 million, 100% allocation to BC.

Tax Payable = $(\$10,000,000 \times 0.3\% \times 243/365)$
+ $(\$10,000,000 \times 0.15\% \times 122/365) =$
\$24,986.30

Example 2:

Corporation with a June 1, 2002 - December 31, 2002 taxation year and net BC paid up capital of \$10 million, 100% allocation to BC.

Tax Payable = $\$10,000,000 \times 0.15\% \times 92/365$
= \$3,780.82

Requirement to File

General corporations and investment dealers with a permanent establishment in British Columbia and net paid up capital in excess of the threshold amount are still required to file a tax return in accordance with section 18 of the Act for all year ends that commence before September 1, 2002.

Financial Institutions

The announced changes do not apply to banks, authorized foreign banks, trust companies or credit unions.

MARCH 2001

Clarification of Who May Calculate Aggregate Paid Up Capital as an Investment Dealer (Section 8)

The calculations for aggregate paid up capital (APUC) are established in section 7, 7.1, 8 and 9 of the Act. These sections apply as follows:

- 7 Banks, trust companies and credit unions
- 7.1 Foreign bank branches

- 8 Investment dealers
- 9 Other corporations

Currently, corporations "registered under the laws of a province to trade in securities" calculate their APUC as investment dealers. Section 8 was intended for corporations that are fully licensed to buy and sell all types of securities and do not have restriction to their registration or license to trade. Provinces issue limited licenses to other types of corporations, which are not primarily in the business of trading securities, to sell their own corporate bonds, debentures or commercial paper in restricted circumstances, e.g. to their parent corporation. Section 8 was not intended to include these corporations under the APUC calculation for investment dealers.

Effective for taxation years ending after December 31, 1994, section 8 is amended to clarify that, for the purposes of the Act, the APUC calculation for an investment dealer does not apply to a corporation only licensed or registered as a security issuer under the laws of British Columbia or any other province.

Deduction of British Columbia Eligible Expenditures When Usage Does Not Commence at time of Acquisition

British Columbia eligible expenditures (BCEE) incurred after March 31, 1999, as defined in the Act, qualify as a deduction from BC paid up capital the year they are incurred and for 3 subsequent taxation years. The amount that may be claimed each year is the carrying value of the asset as stated in the year end financial statements.

With respect to eligible property and eligible tourism property, the legislation currently limits the BCEE deduction to property acquired and used from the acquisition date. It is common for corporations, however, to acquire eligible property or eligible tourism property in one taxation year and begin to make use of it in a subsequent taxation year. This is the case when capital expenditures are incurred with respect to eligible property or eligible tourism property that is being constructed over several years.

Effective for taxation years of corporations ending on or after March 16, 2001, a BCEE deduction will be allowed in a taxation year prior to the usage of eligible property or eligible tourism property provided it has not been used primarily for any other purpose prior to its use for an eligible purpose.

Corporations claiming the BCEE deduction must complete and submit Schedule D with their return.

Consequential Amendment

Subparagraph 11(2)(f)(i) of the Act will be repealed and replaced with the following:

- the interest held by the corporation as a beneficiary of a qualifying environmental trust within the meaning of section 248 (1) of the *Income Tax Act* (Canada), and

This change ensures consistency with the *Income Tax Act* (Canada) by, in effect, substituting "mining reclamation trust" with "qualifying environmental trust".

The change to subparagraph 11(2)(f)(i) will come into effect for taxation years ending on or after February 23, 1994.

MARCH 2000

Foreign Bank Branches

On June 28, 1999, the *Bank Act* (Canada) was amended to permit foreign banks to establish specialized, commercially focused branches in Canada. In view of the differing international standards for capital adequacy requirements and the potential difficulties associated with ascertaining the taxable capital of foreign financial institutions, the *Corporation Capital Tax Act* will be amended to address the taxation of foreign bank branches. Amendments will ensure that foreign bank branches operating in British Columbia are taxed on an equitable basis with domestic banks and Canadian subsidiaries of foreign banks currently operating in the province.

Investment Allowance

In the calculation of the investment allowance under the *Corporation Capital Tax Act*, if a corporation has an interest in a partnership, the investment amount may be deducted under paragraph 11(1)(c) and the corporation's share of partnership assets must be added under 11 (1) (b). Partnership assets must be measured at the taxation year end of the partnership that falls within the corporation's taxation year. In certain circumstances a corporation will have a tax year that does not include a taxation year-end of the partnership. Currently, when this occurs, neither the corporation's share of partnership assets nor the investment amount in the partnership is included in the calculation. In order to correct this unintended result, the legislation will be amended to ensure that the partnership investment is deducted only if the corporation's share of partnership assets is included in total assets.

Land Owned by Non-Resident Corporations

The *Corporation Capital Tax Act* will be amended to clarify that land owned by a non-resident corporation constitutes a permanent establishment for purposes of section 2.

Part Year Permanent Establishments

Section 5 of the *Corporation Capital Tax Act* will be amended to limit the tax reduction available to corporations that commence or cease to have a permanent establishment in the province during a taxation year. If a corporation has a permanent establishment outside of the province, a reduction under section 12, is already available in respect of the paid up capital attributable to that permanent establishment. Therefore the tax reduction for corporations that commence or cease to have a permanent establishment in British Columbia will be limited to corporations that do not have permanent establishments outside of the province. This change will not affect corporations formed through amalgamations.

Effective dates

The changes noted above, except for Foreign Bank Branches, will be effective April 1, 2000. The effective date of the Foreign Bank Branches legislation will be announced when the legislation is finalized.

MARCH 1999

4 Year Tax Holiday

Eligible expenditures, as defined in the Act, incurred after March 31, 1999, qualify as a deduction from BC paid up capital for the taxation year in which they are incurred, and the three subsequent taxation years. The amount that may be claimed each year is the balance sheet amount at the taxation year end.

Eligible expenditures incurred before April 1, 1999, continue to qualify for the two year tax holiday.

MARCH 1998

Threshold Changes

The exemption threshold, which determines whether a corporation is subject to the tax, will increase from the current level of \$1.5 million to \$5 million of net paid up capital as follows:

Year Ends After	Threshold
December 31, 1998	\$2.5 Million
December 31, 1999	\$3.5 Million
December 31, 2000	\$5.0 Million

Financial Institutions

The "tax rate" threshold for financial institutions is increased from \$750 million to \$1 billion of net paid up capital, effective for taxation years ending after March 31, 1998. Financial institutions will be subject to tax at a 1% rate if their net paid up capital is \$1 billion or less; if their net paid up capital exceeds this threshold, the financial institution will be subject to tax at a 3% rate.

Notch Formula

The notch deduction, which phases in the tax for corporations that are marginally taxable, has been changed from a table to a formula. It continues to apply in a range up to \$250,000 greater than the threshold value. For example, for 1999 taxation years, the notch formula applies if the BC paid up capital is between \$2.5 million and \$2.75 million.

The notch formula is as follows:

Tax payable =
tax otherwise payable
– [(notch - capital)] x 1.6% (Note 1)
where

"**tax otherwise payable**" is the tax that would be payable under section 3(2)(b) or 3(3)

"**notch**" is the threshold amount plus \$250,000; and "capital" is net BC paid up capital for the taxation year.

Example:

A Ltd. has a June 30, 1999, year end. It is not associated with any other corporations and is not a financial institution. Its net paid up capital is \$4 million and its net BC paid up capital is \$2.6 million. A Ltd. would calculate its tax as follows:

Tax otherwise payable =
\$2,600,000 x 0.3% = \$7,800

Tax payable =
\$7,800 - [(\$2,750,000 - \$2,600,000)] x 1.6%

Tax payable = \$7,800 - \$2,400

Tax payable = \$5,400

Note 1: 1.6% is the factor that reduces the maximum notch deduction amount of \$4,000 to \$0 over the \$250,000 notch range.

Reduced Tax for Small and Medium Sized Corporations

The current flat fee structure remains unchanged for corporations subject to tax with net BC paid up capital less than \$1.5 million. Corporations subject to tax with net BC paid up capital greater than or equal to \$1.5 million but less than the threshold, must calculate their tax payable based on the following formula:

Tax payable =
[(capital - \$1.5 million)] x rate + \$500

where

"**capital**" is net BC paid up capital for the taxation year;

and

"**rate**" is 1% for financial institutions and 0.3% for all other corporations.

Example:

B. Ltd. has a September 30, 2000, year end. It is not associated with any other corporations and is not a financial institution. Its net paid up capital is \$6 million and its net BC paid up capital is \$2.8 million.

B. Ltd. would calculate its tax as follows:

Tax payable =
[(\$2,800,000 - \$1,500,000) x 0.3%] + \$500
Tax payable = \$3,900 + \$500
Tax payable = \$4,400

Associated Corporations

Parallel rules apply for corporations that are one of two or more associated corporations. The threshold amount is determined by adding together the net paid up capital of each corporation for its taxation year ending in the same calendar year as the taxation year of the corporation for which the tax is being determined.

To determine if a corporation qualifies for the notch formula, the reduced tax for small and medium sized corporations or the flat fees, add together the net BC paid up capital of each corporation for its taxation year ending in the same calendar year as the taxation year of the corporation for which the tax is being determined. Prorate the resulting tax payable amongst the corporations based on their proportionate share of net BC paid up capital.

Technical Changes

A number of technical amendments are also introduced in order to clarify the policy intent and remove ambiguities relating to certain provisions contained in the Act.

Section 15, which calculated adjusted paid up capital, is repealed along with all other references to "adjusted paid up capital". The notch table has been replaced with a notch formula in the new section 3.1 and 3.2.

To determine an associated corporation's proportionate share of total taxes payable, only the net BC paid up capital that is greater than zero is included in the calculation. This removes anomalies when one member of an associated group has net BC paid up capital below zero.

The above amendments take effect January, 1999.

MARCH 1994

Thresholds and Notch Provision

The exemption threshold, which determines whether a corporation is subject to the tax, will increase from the current level of \$1.25 million to \$1.5 million of net paid up capital.

The notch deduction, which phases in the tax for smaller corporations that are marginally taxable, is correspondingly increased. The notch provision will now extend from \$1.5 million to \$1.75 million of net BC paid up capital. The flat fee structure remains unchanged.

The "tax-rate" threshold for financial institutions is increased from \$500 million to \$750 million of net paid up capital. Financial institutions will now be subject to tax at a 1% rate if their net paid up capital is below \$750 million; if their net paid up capital exceeds this threshold, the financial institution will be subject to tax at a 3% rate.

The above changes are effective for corporate taxation years ending after March 31, 1994.

Exemptions

The list of exempt corporations is expanded to include "family farm corporations" and "co-operatives", which are defined terms in the Act.

These exemptions are effective for corporate taxation years ending after March 31, 1994. An information bulletin will be available from the Department outlining procedures for these corporations to obtain refunds, if applicable.

Technical Changes

A number of technical amendments are also introduced in order to clarify the policy intent and remove ambiguities relating to certain provisions contained in the Act.

Section 1 definitions have been amended to clarify the following terms: "business"; "current accounts payable"; "loans and advances to other corporations" and "associated corporations". Definitions have also been added in respect of the following: "adjusted paid-up capital"; "co-operative corporation"; "deferred credit"; "family farm corporation"; "farming"; "livestock"; "purchase money security interest"; "poultry" and "trade accounts payable".

Sections 2, 3 and 13 dealing with permanent establishment, the charging provision, and the allocation of paid up capital outside British Columbia respectively, have been reworded slightly to clarify policy intent and remove minor ambiguities in these provisions.

Section 14 has been amended for corporate taxation years ending after March 31, 1994 such

that the two-year tax holiday in respect of eligible British Columbia expenditures is now available immediately, provided that the other conditions listed in section 14 are met. This amendment, consistent with policy intent, removes a current inequity in the legislation for newly incorporated companies that were previously required to wait until their third taxation year before they could access the two-year tax holiday.

Section 14.3, which outlines rules concerning partnerships and joint ventures, has been amended slightly to clarify which fiscal year-end of the partnership/joint venture must be included in calculating the paid up capital of the corporation.

Section 14.4 is expanded to strengthen the anti-avoidance provision contained in the Act and ensure tax compliance. The wording is consistent with other federal and provincial statutes.

Sections 15, 16, and 25, which outline the compliance provisions, have been amended to remove ambiguities with regard to filing and payment deadlines and to clarify the application of debit or credit interest.

The above amendments take effect at various commencement dates: either April 1, 1992; April 1, 1993; or April 1, 1994. Reference should be made to the amending legislation for the commencement date of a specific provision.

NEED MORE INFO?

This bulletin is provided for convenience and guidance.

For further information, please contact:

Ministry of Small Business and Revenue
Income Tax Branch
PO Box 9444 Stn Prov Govt
Victoria BC V8W 9W8

Telephone: 250 953-3082

Fax: 250 356-0434

If you are calling from outside Victoria, you can call Enquiry BC toll-free at 1 800 663-7867 and request a transfer to 250 953-3082, or e-mail your questions to ITBTaxQuestions@gov.bc.ca

Information is also on the web at www.gov.bc.ca/sbr While there, you can subscribe to our free electronic update service.