

*Corporation Capital Tax Act*

**CORPORATION CAPITAL TAX REGULATION**

[includes amendments up to B.C. Reg. 43/2005, February 16, 2005]

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**Definitions**

- 1** (1) In this regulation:

“**Act**” means the *Corporation Capital Tax Act*;

“**asset securitization guidelines**” means the guidelines, issued by the Superintendent of Financial Institutions (Canada), respecting asset securitization.

- (1.1) In this regulation and in the Act:

“**Canadian banking business**” means the business carried on by an authorized foreign bank through a permanent establishment in Canada, other than business conducted through a representative office registered or required to be registered under section 509 of the *Bank Act* (Canada);

“**OSFI risk-weighting guidelines**” has the same meaning as in section 248 of the *Income Tax Act* (Canada).

- (2) For the purposes of section 3 (2) (a) of the Act,

(a) “**head office**” means

(i) in the case of a bank,

(A) the place specified as the head office in the bank’s incorporating instrument or its by-laws, or

(B) if the address of the head office has been changed and a notice filed with the Superintendent of Financial Institutions as required under the *Bank Act* (Canada), the place specified as head office in that notice, and

(ii) in the case of a trust company or credit union,

(A) the registered office of the trust company or credit union, or

(B) if the location of the head office of the trust company or credit union has been changed and a notice filed with the Superintendent of Financial Institutions as required under the *Financial Institutions Act*, the location specified in that notice, and

(b) a financial corporation is considered to be based in British Columbia if

- (i) the decision making, policy making and administration of the financial corporation take place primarily in British Columbia, and
  - (ii) the financial corporation has a substantial presence in British Columbia.
- (3) For the purposes of section 7.1 of the Act:

**“capital adequacy guidelines”** means the guidelines, issued by the Superintendent of Financial Institutions (Canada), respecting the maintenance by banks of adequate capital;

**“capital deductions”** means, in respect of the Canadian banking business of an authorized foreign bank, the total of all amounts, each of which

- (a) if the bank was a bank listed in Schedule II to the *Bank Act* (Canada), is an amount required under the capital adequacy guidelines to be deducted at the end of the year from the bank’s capital in determining the amount of capital available to satisfy the requirement of the Superintendent of Financial Institutions (Canada) that capital equal a particular proportion of risk weighted assets and exposures, but
- (b) is not an amount in respect of a loss protection facility required under the asset securitization guidelines to be deducted from the bank’s capital;

**“subordinated indebtedness”** means the indebtedness of an authorized foreign bank in respect of its Canadian banking business evidenced by an instrument that, by its terms, provides that the indebtedness will, in the event of the insolvency or winding-up of the bank, be subordinate in right of payment to all deposit liabilities of the bank and all other liabilities of the bank except those that, by their terms, rank equally with or are subordinate to that indebtedness;

**“total risk weighted assets”** means the total of all amounts, each of which is the risk-weighted amount at the end of the year of an on-balance sheet asset or an off-balance sheet exposure of the bank in respect of its Canadian banking business that the bank would be required to report under the OSFI risk-weighting guidelines if those guidelines applied and required a report at that time.

[am. B.C. Reg. 231/2003.]

#### **Date of filing or payment**

- 2 (1) A financial corporation must include the following with a return provided to the administrator under section 18 of the Act:
- (a) a complete set of the financial corporation’s financial statements, prepared in accordance with generally accepted accounting principles other than the equity method of accounting, for the taxation year for which the return is provided;
  - (b) a copy of the federal income tax return, including all supporting schedules, that was filed by or for the financial corporation for the taxation year for which the return is provided;

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- (c) if the financial corporation is an authorized foreign bank, the capital adequacy reports required to be filed with the Office of the Superintendent of Financial Institutions (Canada).
- (2) For a financial corporation,
- (a) a return that is provided to the administrator by mail is, for the purpose of section 18 (1) of the Act, deemed to have been delivered,
  - (b) a payment under section 18 (1) (b) of the Act that is provided to the minister by mail is, for the purpose of section 18 (1) (b), deemed to have been made, and
  - (c) an installment referred to in section 19 (1) of the Act that is provided to the minister by mail is, for the purpose of section 19 (2) and (3) of the Act, deemed to have been paid
- on the date of the valid postmark on the envelope containing the return, payment or installment, as the case may be.

**Crown corporations subject to tax**

- 3 (1) In this section, “**subsidiary**” has the same meaning as subsidiary in the *Business Corporations Act*.
- (2) Unless otherwise exempted under the Act, the following Crown corporations are designated, for the purposes of section 4 (2) of the Act, as being subject to the tax imposed by the Act:
- (a) financial corporations referred to in Schedule I of the *Federal-Provincial Fiscal Arrangements Act* (Canada);
  - (b) any subsidiary of a Crown corporation referred to in paragraph (a) that is a financial corporation.

**Allocation of net paid up capital by a trust company**

- 4 (1) In this section:
- “**gross revenue**” means the aggregate of all amounts received in a taxation year or receivable in a taxation year, depending on the method regularly followed by the trust company in computing its profit or loss, otherwise than as or on account of capital, but does not include the following:
- (a) interest on bonds, debentures and mortgages that are not used in the regular business operation of the trust company;
  - (b) dividends on shares of capital stock that are not used in the regular business operation of the trust company;
  - (c) rentals and royalties for property that is not used in the regular business operation of the trust company;
- “**gross revenue of its permanent establishments in that jurisdiction**” means, for a taxation year, the aggregate of the gross revenue of the trust company for the taxation year arising from

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- (a) loans secured by real property situated in that jurisdiction,
  - (b) loans not secured by real property to persons residing in that jurisdiction,
  - (c) loans administered by the permanent establishments of the trust company in that jurisdiction made to persons residing in another jurisdiction in which the trust company has no permanent establishment, but not including loans secured by real property situated in another jurisdiction in which the trust company has a permanent establishment, and
  - (d) business conducted at the permanent establishments of the trust company in that jurisdiction, other than revenue in respect of loans.
- (2) The amount of a trust company's net paid up capital that is, in respect of a taxation year, allocated to a jurisdiction outside British Columbia is that proportion of its net paid up capital that the gross revenue of its permanent establishments in that jurisdiction for the taxation year is of the total gross revenue for the taxation year of the trust company.

**Allocation of net paid up capital by a bank or credit union****5** (1) In this section:

**“amount of deposits”** means, for a taxation year, 1/12 of the aggregate of the amounts on deposit with the bank or credit union at the close of business on the last day of each month in the taxation year;

**“amount of loans”** means, for a taxation year, 1/12 of the aggregate of the amounts outstanding on the loans made by the bank or credit union at the close of business on the last day of each month in the taxation year;

**“employee”** means an individual holding a position of employment and includes an officer and a director;

**“employment”** means the position of an individual in the service of some other person, including Her Majesty or a foreign state or sovereign;

**“fee”** does not include a commission paid to a person who is not an employee of the financial corporation;

**“loans”** and **“deposits”** do not include bonds, stocks, debentures, items in transit and deposits in favour of Her Majesty in right of Canada;

**“salaries and wages”** has the same meaning as “salary or wages” in section 248 (1) of the *Income Tax Act* (Canada), except that a reference to “taxpayer” must be read as “employee”.

- (2) The amount of net paid up capital of a bank, other than an authorized foreign bank, or credit union that is, in respect of a taxation year, allocated to a jurisdiction outside British Columbia in which the bank or credit union has a permanent establishment is 1/3 of the aggregate of
- (a) that proportion of its net paid up capital for the taxation year that the aggregate of the salaries and wages paid in the year by the bank or credit union to employees of its permanent establishments in that jurisdiction is of

- the aggregate of all salaries and wages paid in the taxation year by the bank or credit union, and
- (b) twice that proportion of its net paid up capital for the taxation year that the aggregate amount of loans and deposits of its permanent establishments in that jurisdiction for the taxation year is of the aggregate of all loans and deposits of the bank or credit union for the taxation year.
- (2.1) The amount of net paid up capital of an authorized foreign bank that is, in respect of a taxation year, allocated to Canadian jurisdictions other than British Columbia in which the bank has a permanent establishment is 1/3 of the aggregate of
- (a) that proportion of its net paid up capital for the taxation year that the aggregate of the salaries and wages paid in the year by the bank in respect of its Canadian banking business to employees of its permanent establishments in those jurisdictions is of the aggregate of all salaries and wages paid in the taxation year by the bank in respect of its Canadian banking business, and
- (b) twice that proportion of its net paid up capital for the taxation year that the aggregate amount of loans and deposits in respect of its Canadian banking business of its permanent establishments in those jurisdictions for the taxation year is of the aggregate of all loans and deposits of the bank in respect of its Canadian banking business for the taxation year.
- (3) For the purposes of subsections (2) and (2.1), if a bank or credit union pays a fee to a person under an agreement under which the person or employees of that person perform services for the bank or credit union that would normally be performed by employees of the bank or credit union,
- (a) the fee paid is deemed to be salary paid in the taxation year by the bank or credit union, and
- (b) that part of the fee that may reasonably be regarded as payment in respect of services rendered at a particular permanent establishment of the bank or credit union is deemed to be salary paid to an employee of that permanent establishment.

[am. B.C. Regs. 111/2003; 43/2005.]

#### Interest on tax due

- 6** (1) Interest on tax due to the government under the Act accrues on a daily basis and must be compounded every 30 days.
- (2) Section 4 [*rate of interest*] of the Interest on Overdue Accounts Receivable Regulation, B.C. Reg. 214/83, applies for the purposes of calculating interest under subsection (1).

#### Interest on refund due

- 7** (1) Subject to section 19 (12) of the Act, no interest is payable on tax refunded to a financial corporation under the Act unless the administrator fails to refund the tax

within the period of 60 days after the financial corporation establishes that it is entitled to the refund.

- (2) Interest must be paid on a refund referred to in subsection (1) beginning on the day after the period referred to in that subsection.
- (3) Interest on a refund due under the Act accrues on a daily basis and must be compounded every 30 days.
- (4) Section 6 (1) [*rates of interest*] of the Interest on Overdue Accounts Payable Regulation, B.C. Reg. 215/83, applies for the purposes of calculating interest under subsection (3).

*Note: this regulation replaces B.C. Reg. 79/96.*

[Provisions of the *Corporation Capital Tax Act*, R.S.B.C. 1996, c. 73, relevant to the enactment of this regulation: section 3 (6) and (7), 4 (2), 7.1 (2), 12, 19 (13) and 48]