

Chapter 5

AN ACT TO AMEND THE INCOME TAX ACT, NO. 3

(Assented to June 4, 2008)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

1. The *Income Tax Act* is amended by this Act.

2. The following is added after section 2.21:

Credit for young children

2.211. (1) For the purposes of computing the tax payable for a taxation year by an eligible individual, there may be deducted, in respect of each qualified dependent, an amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the year; and

B is,

- (a) for the 2006 taxation year, \$600; and
- (b) for the 2007 and subsequent taxation years, \$1,200.

Definitions

(2) In subsection (1),

"eligible individual" means a person who, on the last day of the taxation year is resident in Nunavut and who, at that time,

- (a) does not have a cohabiting spouse or common-law partner as defined in section 122.6 of the federal Act,
- (b) has a cohabiting spouse or common-law partner, as defined in section 122.6 of the federal Act, whose income for the year is greater than the individual's income for the year, or
- (c) has a cohabiting spouse or common-law partner, as defined in section 122.6 of the federal Act, whose income for the year is equal to the individual's income for the year and the cohabiting spouse or common-law partner renounces his or her entitlement to deduct an amount determined by the formula under subsection (1);
(*particulier admissible*)

"qualified dependent" means a person who

- (a) is less than six years of age at any time during the taxation year,

- (b) is residing with the eligible individual on the last day of the taxation year or, in the case of a child who dies during the taxation year, is residing with the eligible individual on the date of the child's death;
- (c) is a qualified dependant, as defined in section 122.6 of the federal Act, of the eligible individual at any time during the taxation year, and
- (d) is not a person in respect of whom an amount has been deducted for the taxation year under subsection 2.15(3). (*personne à charge admissible*)

3. Subsection 2.26(2) is repealed and the following substituted:

Application of federal Act

(2) Section 118.6 of the federal Act, other than subsection 118.6(2.1), applies for the purposes of this section, except that subsection (1) of this section applies instead of subsection 118.6(2) of the federal Act.

4. Subsections 2.27(1) and (2) are repealed and the following substituted:

Unused tuition and education tax credits

2.27. (1) For the purpose of computing an individual's tax payable under this Part for a taxation year, there may be deducted the lesser of

- (a) the individual's unused tuition and education tax credits at the end of the preceding taxation year; and
- (b) the amount that would be the individual's tax payable under this Part for the year if no amount were deductible under this Division, other than an amount deductible under this section or section 2.14 to 2.211, 2.24 or 2.29.

Determination of amount

(2) In this section, subject to subsection (3), an individual's unused tuition and education tax credits at the end of a taxation year is the amount determined by the formula

$$A + (B - C) - (D + E)$$

where

A is the individual's unused tuition and education tax credits at the end of the preceding taxation year;

B is the total of all amounts each of which may be deducted under section 2.25 or 2.26 in computing the individual's tax payable under this Part for the year;

- C is the lesser of the value of B and the amount that would be the individual's tax payable under this Part for the year if no amount were deductible under this Division, other than an amount deductible under this section or section 2.14 to 2.211, 2.24 or 2.29;
- D is the amount that the individual may deduct under subsection (1) for the year; and
- E is the tuition and education tax credits transferred for the year by the individual to the individual's spouse, common-law partner, parent or grandparent.

5. Section 2.3 is repealed and the following substituted:

Transfer of tax credits to spouse, etc.

2.3. (1) For the purpose of computing the tax payable under this Part for a taxation year by an individual who, at any time in the year, is a married person or a person who is in a common-law partnership, other than an individual who, by reason of a breakdown of the individual's marriage or common-law partnership, is living separate and apart from the individual's spouse or common-law partner at the end of the year and for a period of 90 days commencing in the year, there may be deducted an amount determined by the formula

$$A + B - C$$

where

- A is the tuition and education tax credits transferred for the year by the spouse or common-law partner to the individual;
- B is the total of all amounts each of which is deductible under sections 2.2, 2.21, 2.211 and 2.24 in computing the spouse's or common-law partner's tax payable under this Part for the year, or that would be so deductible if the spouse or common-law partner were liable under section 2 to pay tax for the year; and
- C is the amount, if any, by which
 - (a) the amount that would be the spouse's or common-law partner's tax payable under this Part for the year, or that would be so payable if the spouse or common-law partner were liable under section 2 to pay tax for the year, if no amount were deductible under this Division, other than an amount deductible under section 2.16, 2.27 or 2.29, exceeds
 - (b) the lesser of
 - (i) the total of all amounts that may be deducted under sections 2.25 and 2.26 in computing the spouse's or common-law partner's tax payable under this Part for the year, or that

- would be so deductible if the spouse or common-law partner were liable under section 2 to pay tax for the year, and
- (ii) the amount that would be the spouse's or common-law partner's tax payable under this Part for the year, or that would be so payable if the spouse or common-law partner were liable under section 2 to pay tax for the year, if no amount were deductible under this Division, other than an amount deductible under section 2.14 to 2.21, 2.24, 2.27 or 2.29.

Transfer of tax credits to parent, etc.

(2) If for a taxation year a parent or grandparent of an individual (other than an individual in respect of whom the individual's spouse or common-law partner deducts an amount for the year under section 2.14 or subsection 2.3(1) of this Act, section 118 or 118.8 of the federal Act or similar provisions of an income tax statute of another province of Canada) is the only person designated in writing by the individual for the year for the purpose of this subsection, and no other person is designated for the year for the purpose of section 118.9 of the federal Act, or similar provision of an income tax statute of another province of Canada, there may be deducted in computing the tax payable under this Part for the year by the parent or grandparent, as the case may be, the tuition and education tax credits transferred for the year by the individual to the parent or grandparent, as the case may be.

Determination of transferred credits

(3) In this subdivision, the tuition and education tax credits transferred for a taxation year by a person to an individual is the lesser of

- (a) the amount determined by the formula

$$A - B$$

where

- A is the lesser of
 - (i) the total of all amounts that may be deducted under section 2.25 or 2.26 in computing the person's tax payable under this Part for the year, or that would be so deductible if the person were liable under section 2 to pay tax for the year, and
 - (ii) the amount obtained by multiplying \$5,000 by the appropriate percentage for the year, and
- B is the amount that would be the person's tax payable under this Part for the year, or that would be so payable if the person were liable under section 2 to pay tax for the year, if no amount were deductible under this Division, other than

- an amount deductible under section 2.14 to 2.211, 2.24, 2.27 or 2.29; and
- (b) the amount for the year that the person designates in writing for the purpose of subsection (1) or (2).

6. Section 2.34 is repealed and the following substituted:

Part-year residents

2.34. (1) Notwithstanding sections 2.14 to 2.3, but subject to subsection (2), if an individual is resident in Canada throughout part of a taxation year and throughout another part of the year is non-resident, for the purpose of computing the individual's tax payable under this Act for the year,

- (a) the amount deductible for the year under each of sections 2.14 to 2.3 with respect to the part of the year that is not included in the period or periods in the year throughout which the individual is resident in Canada is to be computed as though that part were the whole year; and
- (b) the individual is allowed
 - (i) under sections 2.21, 2.22, 2.23, 2.25, 2.26, 2.28 and 2.29 only the deductions that can reasonably be considered wholly applicable to the period or periods in the year throughout which the individual is resident in Canada, computed as though that period or those periods were the whole year, and
 - (ii) under sections 2.14 to 2.2, 2.211, 2.24 and 2.3, only such part of the deductions that can reasonably be considered applicable to the period or periods in the year throughout which the individual is resident in Canada, computed as though that period or those periods were the whole year.

Limit

(2) The amount deductible for the taxation year by the individual under each provision referred to in subsection (1) shall not exceed the amount that would have been deductible under that provision if the individual had been resident in Canada throughout the year.

7. Section 2.35 is repealed and the following substituted:

Ordering of non-refundable credits

2.35. In computing an individual's tax payable under this Part, the following provisions shall be applied in the following order: sections 2.14 to 2.19, 2.211, 2.2, 2.29, 2.21, 2.24, 2.27, 2.25 and 2.26, subsections 2.3(2) and 2.3(1) and sections 2.23, 2.22, 2.28 and 2.32.

8. Section 2.38 is repealed and the following substituted:

Credits in year of bankruptcy

2.38. (1) Notwithstanding sections 2.14 to 2.3, but subject to subsection (2), for the purpose of computing an individual's tax payable under this Part for a taxation year that ends in a calendar year in which the individual becomes bankrupt, the individual shall be allowed only

- (a) such of the deductions as the individual is entitled to under sections 2.21, 2.22, 2.23, 2.25, 2.26, 2.28 and 2.29 as can reasonably be considered wholly applicable to the taxation year; and
- (b) such part of the deductions as the individual is entitled to under sections 2.14 to 2.2, 2.211, 2.24 and 2.3 as can reasonably be considered applicable to the taxation year.

Limit

(2) The total of the amounts deductible for all taxation years of the individual in the calendar year under any of the provisions referred to in subsection (1) shall not exceed the amount that would have been deductible under that provision in respect of the calendar year if the individual had not become bankrupt.

9. This Act is deemed to have come into force on January 1, 2006.