

## Chapter 5

### AN ACT TO AMEND THE INCOME TAX ACT

(Assented to June 16, 2009)

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. Subsection 2.13(1) is repealed and the following substituted:**

Definition of "relevant provision"

**2.13.** (1) In this section, "relevant provision" means subsection 2.11(2), sections 2.14 to 2.2, section 2.24 or subsection 6.2(1).

- 3. Section 2.21 is amended by striking out "\$1,000" in the description of "B" and substituting "\$2,000".**

- 4. Section 2.22 is repealed and the following substituted:**

Charitable donations credit

**2.22.** For the purpose of computing the tax payable under this Part by an individual for a taxation year, if the individual is entitled to a deduction under subsection 118.1(3) of the federal Act for the year, there may be deducted such amount as the individual claims determined by the formula

$$(A \times B) + [C \times (D - B)]$$

where

- A is the appropriate percentage for the year;
- B is the lesser of \$200 and the amount determined for D;
- C is the highest percentage for the year; and
- D is the amount of the individual's total gifts used to determine the amount deducted under subsection 118.1(3) of the federal Act by the individual for the year.

- 5. (1) The following is added after subsection 2.26(1):**

Textbook credit

(1.1) If an individual is entitled to deduct an amount under subsection 118.6(2.1) of the federal Act for the purpose of computing the individual's tax payable for a taxation year under Part I of the federal Act, for the purpose of computing the tax payable for a

taxation year under this Part by the individual for the 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 total of the products obtained when

- (a) \$65 is multiplied by the number of months referred to in paragraph (a) of the description of "B" in subsection (1), and
- (b) \$20 is multiplied by the number of months referred to in paragraph (b) of the description of "B" in subsection (1).

**(2) Subsections 2.26(2) is repealed and the following substituted:**

Application of federal Act

(2) Section 118.6 of the federal Act applies for the purposes of this section, except that subsections (1) and (1.1) of this section apply instead of subsections 118.6(2) and (2.1) of the federal Act.

**6. Section 2.27 is amended by striking out "tuition and education" wherever they appear and substituting "tuition, education and textbook".**

**7. The following is added after section 6.1:**

**VOLUNTEER FIREFIGHTER TAX CREDIT**

Volunteer firefighter tax credit

**6.2.** (1) An eligible volunteer firefighter may deduct from tax otherwise payable under this Part for a taxation year the amount of \$500.

Eligible volunteer firefighter

(2) For the purposes of this section, an individual is an eligible volunteer firefighter if he or she

- (a) was resident in Nunavut at the end of the taxation year;
- (b) was a firefighter for a minimum of six months during the calendar year in which the individual claims the deduction;
- (c) was a member of a fire department established by a municipality;
- (d) has a letter signed by the Fire Marshal, or the chief or acting chief of the fire department, stating that the individual spent at least 200 hours participating in the following activities during the calendar year:
  - (i) responding to emergency calls as a firefighter,
  - (ii) being on call as a firefighter to respond to emergency calls,

- (iii) training courses related to fire fighting or fire inspection,
- (iv) meetings held by the fire department; and
- (e) has not received salary, wages or compensation or anything in lieu of salary, wages or compensation, other than reasonable reimbursement or allowance for expenses, in respect of firefighting services during the taxation year in which the individual claims the tax credit.

Credits in year of bankruptcy

(3) Notwithstanding subsection (1), 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,

- (a) the individual shall be allowed only such of the tax credit as the individual is entitled to under this section as can reasonably be considered wholly applicable to the taxation year; and
- (b) the total of the amounts deductible for all taxation years of the individual in the calendar year under this section shall not exceed the amount that would have been deductible in respect of the calendar year if the individual had not become bankrupt.

**8. The following is added after section 6.2:**

**BUSINESS TRAINING TAX CREDIT**

Definitions

**6.3.** (1) In this section,

"business training" means training that is

- (a) provided to an eligible employee,
- (b) paid for by an eligible employer,
- (c) conducted by a trainer, institution, person or entity that deals at arm's length with the eligible employer;
- (d) provided at the eligible employee's place of employment, at another place or by distance learning via the Internet or correspondence, and
- (e) relevant to the duties performed or expected to be performed by the eligible employee;

"business training tax credit" means the tax credit for business training, determined in accordance with this section, to which an eligible employer is entitled under subsection (2);

"eligible employee" means an individual

- (a) who is employed full-time by an eligible employer, and
- (b) whose place of employment is in Nunavut, when the employee is on business training;

"eligible employer" means a sole proprietor, a partnership or a corporation who, when the business training is provided,

- (a) lawfully carries on business in Nunavut and has a permanent establishment in Nunavut,
- (b) has at least one full-time eligible employee in Nunavut,
- (c) is not exempt from tax under this Act and is not controlled directly or indirectly by one or more persons who are exempt from tax under this Act,
- (d) has a business number from the Canada Revenue Agency,
- (e) has a payroll tax registration number from the Nunavut Department of Finance for the Nunavut payroll tax,
- (f) in the case of a corporation, is incorporated or continued under the *Business Corporations Act* or is registered as an extra-territorial corporation under that Act,
- (g) is not receiving more than half of its total revenue in the form of non-repayable grants or contributions from the Government of Nunavut, and
- (h) is not in arrears to the Government of Nunavut for overdue taxes under any enactment.

#### Entitlement to tax credit

(2) An eligible employer, who has been issued one or more business training tax credit certificates under subsection (4) and who files its return of income for the taxation year indicated in the certificate, is deemed to have paid, on its balance-due date, an amount on account of its tax payable under this Act for that taxation year equal to the lesser of

- (a) the total of the amount of the business training tax credit indicated on the business training tax credit certificates issued under subsection (4) for the taxation year; and
- (b) the amount determined under subsection (5) for the taxation year.

#### Application for business training tax credit certificate

(3) An eligible employer who will be providing business training to one or more eligible employees may, in accordance with the regulations, apply for a business training tax credit certificate for the business training expected to be completed in a taxation year.

#### Business training tax credit certificate

(4) The Deputy Minister of the Department of Finance may, in accordance with the regulations, issue a business training tax credit certificate to an eligible employer indicating

- (a) the name and business number of the eligible employer;
- (b) the amount of the maximum business training tax credit to which the eligible employer is entitled; and
- (c) the taxation year to which the business training tax credit applies.

Amount of business training tax credit

(5) Subject to this section, the amount of the business training tax credit is equal to the aggregate of

- (a) 30% of the eligible employer's business training expenses for the taxation year; and
- (b) 20% of the eligible employer's business training expenses for the taxation year, in respect of each eligible employee who is a beneficiary under the Nunavut Land Claims Agreement.

Business training expenses

(6) For the purposes of determining the business training tax credit under subsection (5) for a taxation year, the total amount of an eligible employer's business training expenses is determined by the formula:

$$A + B - C$$

where

A is the amount of the direct costs of providing the business training incurred by the eligible employer for the taxation year equal to the total of the following amounts:

- (a) the cost of training courses or conferences provided to an eligible employee, including course fees, conference fees, trainer fees and the cost of course materials,
- (b) wages paid to an eligible employee while he or she is on business training,
- (c) the costs of travel, accommodation and per diem expenses for an eligible employee who is away from his or her place of employment for business training, and
- (d) the costs of travel, accommodation and per diem expenses, not included in paragraph (a), for a trainer to come to the eligible employee's place of employment to conduct the business training;

B is the deemed amount of all indirect costs of providing the business training incurred by the eligible employer for the taxation year equal to 10% of the amount of wages paid by the employer to an eligible employee while the eligible employee is on business training, other than training provided only by distance learning via the Internet or correspondence;

C is the amount of any financial assistance, including a grant, subsidy or forgivable loan, received by the eligible employer for the taxation year from a government, municipality or other public body in respect of the business training.

Proportioning expenses

(7) For the purposes of determining the portion of the business training tax credit referred to in paragraph (5)(b), the direct costs determined under the description of "A" in the formula in subsection (6) that are common to all eligible employees must be

apportioned to those who are beneficiaries under the Nunavut Land Claims Agreement according to their proportion of the total number of eligible employees receiving the business training.

#### Tax credit for a partnership

(8) If an eligible employer is a partnership, a taxpayer who is a member of the partnership, other than a specified member as defined in subsection 248(1) of the federal Act, is entitled to that portion of the amount of the business training tax credit that can reasonably be considered to be the share of that taxpayer.

#### Successful completion of training

(9) No business training tax credit may be claimed for any business training that an eligible employee failed to successfully complete.

#### Tax credit limit

(10) The total amount of the business training tax credits to which an eligible employer is entitled during any 12-month period from April 1 to March 31 shall not exceed

- (a) \$10,000 in the case of any eligible employer who is a sole proprietor or a partnership or who qualifies for the small business deduction under the federal Act; and
- (b) \$50,000 in the case of an eligible employer that is a corporation which does not qualify for the small business deduction under the federal Act.

#### Annual program limit

(11) The total amount of all business training tax credits available to all eligible employers during any 12-month period from April 1 to March 31 shall not exceed \$1,500,000.

#### Application of refund

(12) The amount by which the business training tax credits to which an eligible employer is entitled under this section exceeds the eligible employer's tax payable under this Act for the taxation year calculated without reference to this section may be applied by the Commissioner to pay any

- (a) tax, interest or penalty owing by the eligible employer for that or any prior taxation year under this Act, the income tax statute of any agreeing province or the federal Act,
- (b) contribution, penalty or interest owing by the eligible employer for that or any prior taxation year as a result of payments required from the eligible employer under the *Canada Pension Plan*, and
- (c) premium, interest or penalty owing by the eligible employer for that or any prior taxation year under the *Unemployment Insurance Act* (Canada),

and the part of the amount not so applied shall be paid to the eligible employer.

Expiry of program

(13) No business training tax credits are available for any business training provided or completed after March 31, 2014.

**9. (1) Section 4 is deemed to have come into force on January 1, 2006.**

**(2) Sections 2, 5, 6 and 7 are deemed to have come into force on January 1, 2008.**

**(3) Section 8 is deemed to have come into force on April 1, 2009.**