

2019 Legislative Session: 4th Session, 41st Parliament
FIRST READING

The following electronic version is for informational purposes only.
The printed version remains the official version.

HONOURABLE CAROLE JAMES
MINISTER OF FINANCE AND DEPUTY PREMIER

BILL 10 – 2019
INCOME TAX AMENDMENT ACT, 2019

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Explanatory Note

1 Section 65 (1) of the Income Tax Act, R.S.B.C. 1996, c. 215, is amended in paragraph (b) of the definition of "information-sharing agreement" by striking out "or 130" and substituting ", 130 or 209".

Explanatory Note

2 Section 68.1 (6) (b) is amended by adding "or Part 13 [Natural Gas Tax Credit]" after "or 30".

Explanatory Note

3 The following Part is added:

PART 13 – NATURAL GAS TAX CREDIT

Division 1 – Definitions

Definitions

172 In this Part:

"commissioner" means the Commissioner of Income Tax;

"determination" includes a redetermination;

"LNG" means natural gas from which natural gas liquids have been predominantly removed and that is liquefied;

"LNG facility inlet meter", in relation to a major LNG facility, means a meter at which the volume of natural gas is first measured after the natural gas is delivered to the major LNG facility;

"major LNG facility" means a facility in British Columbia that

- (a) is used or intended to be used to process natural gas, and
- (b) is capable of producing a prescribed amount of LNG per year;

"natural gas" has the same meaning as in the *Petroleum and Natural Gas Act*, but does not include LNG;

"natural gas liquids" means butane, ethane, propane or pentanes plus and any other condensates, or any combination of them, whether in gaseous or liquid form;

"notionally acquired", in relation to a corporation, means a deemed purchase under section 178 [*deemed purchase of natural gas*] by the corporation of natural gas at an LNG facility inlet meter;

"petroleum" has the same meaning as in the *Petroleum and Natural Gas Act*;

"qualifying corporation", for a taxation year, means a corporation that

- (a) has a permanent establishment in British Columbia at any time during the taxation year, and
- (b) whose principal business in British Columbia during the taxation year consists of one or more of the following:
 - (i) the exploration for or development of petroleum or natural gas;
 - (ii) the production, gathering, processing, refining, marketing, storage or disposal of petroleum, natural gas or LNG;
 - (iii) the construction, use or operation of a major LNG facility;
 - (iv) the liquefaction of natural gas;
 - (v) a prescribed activity,

but does not include a corporation that is of a type or class of corporation prescribed by regulation.

Division 2 – Natural Gas Tax Credit

Natural gas tax credit

173 (1) A qualifying corporation may claim a tax credit for a taxation year that begins on or after January 1, 2020 in an amount not exceeding the least of the following:

- (a) the amount determined for the taxation year under subsection (2);
- (b) subject to section 175 [*tax calculation change*] and subsection (11) of this section, the amount determined by the following formula:

$$\text{amount} = A - B$$

where

A = the amount, if any, of the tax payable by the corporation for the taxation year under section 14 (2) or 16 (1) (b), as the case may be;

B = the amount, if any, of the tax that would be payable by the corporation for the taxation year under section 14 (2) or 16 (1) (b), as the case may be, if the applicable percentage in the provision were read as a reference to the greater of the following:

- (i) the applicable percentage minus 3 percentage points;
- (ii) 9%;

(c) the amount of tax that would otherwise be payable by the corporation under this Act for the taxation year but for the tax credit under this subsection.

(2) The amount eligible to be claimed under subsection (1) (a) for the taxation year is an amount equal to the total of the following:

(a) the qualifying corporation's annual natural gas tax credit determined for that taxation year under subsection (3);

(b) subject to subsections (8) and (9), the total of the qualifying corporation's annual natural gas tax credits for all preceding taxation years less any amounts that were previously claimed by the corporation under subsection (1) for those preceding taxation years.

(3) A qualifying corporation's annual natural gas tax credit for a taxation year is the total of the following:

(a) 0.5% of the corporation's eligible cost of natural gas for the taxation year;

(b) the amount, if any, determined for the taxation year under subsection (4);

(c) if the corporation is a member of a partnership, the amount, if any, determined for the taxation year under subsection (6).

(4) Subject to section 174, the amount to be included under subsection (3) (b) in determining the qualifying corporation's annual natural gas tax credit for the taxation year is the prescribed percentage, if any, of the corporation's eligible cost of natural gas for that taxation year.

(5) A qualifying corporation's eligible cost of natural gas for a taxation year is an amount equal to the total cost, as determined under Division 3 of this Part, of all natural gas notionally acquired in the taxation year by the corporation at an LNG facility inlet meter for a major LNG facility.

(6) The amount to be included under subsection (3) (c) in determining the qualifying corporation's annual natural gas tax credit for the taxation year is the amount equal to the total of all amounts each of which is the corporation's appropriate portion of a partnership's annual natural gas tax credit for the fiscal period of the partnership ending in the taxation year of the qualifying corporation, as determined under subsection (7).

(7) For the purposes of subsection (6), the following rules apply for determining the amount of a qualifying corporation's appropriate portion of a partnership's annual natural gas tax credit for a fiscal period of the partnership:

(a) the amount of the partnership's annual natural gas tax credit is to be determined by applying section 174 and subsections (3) to (5) of this section as if the partnership were a qualifying corporation and the partnership's fiscal period were its taxation year;

(b) the appropriate portion is that portion that may reasonably be considered to be the qualifying corporation's share of the amount determined under paragraph (a) of this subsection.

(8) For the purposes of subsection (2) (b), if a corporation

(a) does not meet, for a particular taxation year, the requirement set out in paragraph (a) of the definition of "qualifying corporation" in section 172, and

(b) was a qualifying corporation for a taxation year preceding the particular taxation year,

for all taxation years subsequent to the particular taxation year, the total of the corporation's annual natural gas tax credits for all taxation years preceding the particular taxation year, less any amounts that were previously claimed by the corporation under subsection (1) for those preceding taxation years, is deemed to be nil.

(9) For the purposes of subsection (2) (b), if a qualifying corporation is subject to a loss restriction event, within the meaning of section 251.2 (2) of the federal Act, at any time in a particular taxation year, the total of the corporation's annual natural gas tax credits for all taxation years preceding the particular taxation year, less any amounts that were previously claimed by the corporation under subsection (1) for those preceding taxation years, is deemed to be nil.

(10) In the description of "B" in subsection (1) (b), "applicable percentage",

(a) in relation to section 14 (2), means the percentage referred to in that section, and

(b) in relation to section 16 (1) (b), means the highest percentage referred to in that section.

(11) If the amount determined under subsection (1) (b) would, but for this subsection, be a negative amount, that amount is deemed to be nil.

Credit calculation change

174 (1) In this section, "**credit calculation change**" means the prescribing of a percentage for the purposes of section 173 (4), including any amendment to the regulations that effects a change in or the repeal of a percentage prescribed for the purposes of that section.

(2) If, during the taxation year of a qualifying corporation, there are one or more credit calculation changes, the amount to be included under section 173 (3) (b) in determining the corporation's annual natural gas tax credit for that taxation year is to be determined in accordance with the following:

(a) the corporation must divide its taxation year into notional taxation years as follows:

(i) the first of those notional taxation years begins on the first day of the corporation's taxation year and ends on the day before the day on which the first credit calculation change that occurs in its taxation year takes effect;

(ii) subject to subparagraph (iii), a notional taxation year will begin on each day in the corporation's taxation year on which a credit calculation change takes effect and will end on the day before the day in its taxation year on which the next credit calculation change takes effect;

(iii) the last notional taxation year begins on the day on which the last credit calculation change that occurs in the corporation's taxation year takes effect and ends on the last day of its taxation year;

(b) the corporation must, for each notional taxation year within the corporation's taxation year, multiply the percentage prescribed for the purposes of section 173 (4), if any, on the first day of that notional taxation year by an amount equal to the total cost, as determined under Division 3 of this Part, of all natural gas notionally acquired in the notional taxation year by the corporation at an LNG facility inlet meter for a major LNG facility;

(c) the corporation must add to the amount determined under paragraph (b) for the first notional taxation year within the corporation's taxation year the amounts determined under paragraph (b) for each of the other notional taxation years within its taxation year;

(d) the total amount determined under paragraph (c) is the amount to be included under section 173 (3) (b) in determining the corporation's annual natural gas tax credit for the taxation year.

Tax calculation change

175 (1) In this section, "**tax calculation change**" means any amendment to this Act that effects a change to any rate that is to be used for the purposes of determining the amount under section 173 (1) (b) [*natural gas tax credit*].

(2) If, during the taxation year of a qualifying corporation, there are one or more tax calculation changes, the amount under section 173 (1) (b) for that taxation year must be determined in accordance with the following:

(a) the corporation must divide its taxation year into notional taxation years as follows:

(i) the first of those notional taxation years begins on the first day of the corporation's taxation year and ends on the day before the day on which the first tax calculation change that occurs in its taxation year takes effect;

(ii) subject to subparagraph (iii), a notional taxation year will begin on each day in the corporation's taxation year on which a tax calculation change takes effect and will end on the day before the day in its taxation year on which the next tax calculation change takes effect;

(iii) the last notional taxation year begins on the day on which the last tax calculation change that occurs in the corporation's taxation year takes effect and ends on the last day of its taxation year;

(b) the corporation must, for each notional taxation year within the corporation's taxation year, determine, in accordance with sections 14 (2), 16 (1) (b) and 173 (1) (b) as those provisions read on the first day of that notional taxation year, the amount described in section 173 (1) (b) if that amount were determined

(i) on the corporation's taxable income for the whole of its taxation year, and

(ii) as if the wording of those provisions applied throughout the whole of its taxation year;

(c) the corporation must, for each notional taxation year within the corporation's taxation year, multiply the amount determined for that notional taxation year under paragraph (b) by the fraction obtained by dividing the number of days in that notional taxation year by the number of days in the corporation's taxation year;

(d) the corporation must add to the amount determined under paragraph (c) for the first notional taxation year within the corporation's taxation year the amounts determined under paragraph (c) for each of the other notional taxation years within its taxation year;

(e) the total amount determined under paragraph (d) is the amount to be used under section 173 (1) (b) for the corporation's taxation year.

Amalgamations and wind ups

176 (1) If, on or after January 1, 2020, 2 or more corporations amalgamate within the meaning of section 87 (1) of the federal Act, the new corporation is deemed, for the purposes of this Part, to be a continuation of each of its predecessor corporations.

(2) If, on or after January 1, 2020, a subsidiary corporation is wound up within the meaning of section 88 (1) of the federal Act, the parent corporation is deemed, for the purposes of this Part, to be a continuation of the subsidiary corporation.

Division 3 – Cost of Natural Gas

Definitions for this Division

177 In this Division:

"feedstock pipeline" means that portion of a natural gas pipeline from and including a feedstock pipeline inlet on the natural gas pipeline to an LNG

facility inlet meter;

"feedstock pipeline inlet" means a meter station that is

- (a) located in British Columbia on a natural gas pipeline, and
- (b) designated by regulation in respect of a major LNG facility;

"month", in relation to a corporation's taxation year, means a calendar month or partial calendar month in the corporation's taxation year;

"reference point" means the prescribed reference point.

Deemed purchase of natural gas

178 If a qualifying corporation owns natural gas immediately after the natural gas passes through an LNG facility inlet meter for a major LNG facility, the corporation is deemed, for the purposes of this Part, to purchase that natural gas at that LNG facility inlet meter.

Cost of natural gas notionally acquired in month

179 (1) For each month in a qualifying corporation's taxation year, the corporation must calculate the cost of all natural gas notionally acquired by the corporation in that month at an LNG facility inlet meter for a major LNG facility.

(2) For the purposes of this Part, the cost of all natural gas notionally acquired in a month by a qualifying corporation at an LNG facility inlet meter for a major LNG facility is the amount equal to the total of the following:

- (a) the notional cost determined under section 180 of natural gas notionally acquired in the month by the corporation at the LNG facility inlet meter for the major LNG facility;
- (b) the transportation cost determined under section 181 for natural gas notionally acquired in the month by the corporation at the LNG facility inlet meter for the major LNG facility.

Notional cost of natural gas notionally acquired in month

180 For the purposes of section 179 (2) (a), the notional cost of natural gas notionally acquired in a month by a qualifying corporation at an LNG facility inlet meter for a major LNG facility is the amount determined by the following formula:

$$\text{notional cost} = \frac{\text{energy content}}{\text{fuel and losses adjustment}} \times \text{reference price}$$

where

- energy content = the amount, expressed in gigajoules, determined by multiplying the following:
- (a) the volume of natural gas notionally acquired in the month by the corporation at the LNG facility inlet meter for the major LNG facility;
 - (b) the heating value of that natural gas as determined at the LNG facility inlet meter;

- fuel and losses adjustment = the total determined by adding 100% and the corporation's pipeline fuel and losses adjustment, determined in accordance with the regulations, in respect of the major LNG facility and for the month, which adjustment may be a positive or negative percentage;
- reference price = the amount per gigajoule determined for the month by the minister charged with the administration of the *Petroleum and Natural Gas Act*, which amount is, in the opinion of that minister, the fair market value of natural gas acquired in the month at the reference point, as determined in accordance with the regulations.

Transportation cost for natural gas notionally acquired in month

- 181** For the purposes of section 179 (2) (b) [*cost of natural gas notionally acquired in month*], the transportation cost of natural gas notionally acquired in a month by a qualifying corporation at an LNG facility inlet meter for a major LNG facility is the total of all amounts each of which is an amount paid or payable by the corporation for the delivery of that natural gas through a feedstock pipeline.

Division 4 – Administration

Definition for this Division

- 182** In this Division, "**assessable amount**", in relation to a corporation, means
- (a) an amount payable under section 198 [*excess refund*] by the corporation,
 - (b) any penalties payable under this Part by the corporation, and
 - (c) any interest payable under this Part by the corporation.

Application for tax credit

- 183** (1) A corporation that wishes to claim a tax credit under this Part in respect of a taxation year must file an application for the tax credit in the form and manner, and containing the information and records, required by the commissioner.
- (2) A corporation is not entitled to a tax credit under this Part in respect of a taxation year unless
- (a) the corporation, within 18 months after the end of the taxation year, files with the commissioner the form containing the information and records required under subsection (1), and
 - (b) the corporation, within 3 years after the end of the taxation year or a later period approved by the commissioner, files with the commissioner proof satisfactory to the commissioner that the following amounts payable by the corporation for the taxation year have been paid:
 - (i) any amount payable under section 158 of the federal Act, as that section applies for the purposes of this Act;
 - (ii) any amount payable under section 158 of the federal Act.

Determination of tax credit

- 184** The commissioner must examine an application and other information or records filed under section 183 by a corporation and determine the amount of any tax credit to which the corporation is entitled under this Part.

Deemed payment of tax

- 185** A corporation that has claimed and is entitled to a tax credit under this Part for a taxation year is deemed to have paid, at the time referred to in section 157 (1) (b) of the federal Act, as that section relates to the taxation year, the amount of that credit on account of the corporation's tax payable under this Act for the taxation year.

Payment of tax refund

- 186** (1) If an overpayment is created as the result of a tax credit under this Part, the Provincial minister must pay, out of the consolidated revenue fund, the tax refund payable to a corporation under this Part in the amount specified in the notice of determination sent to the corporation.
- (2) Despite subsection (1), if the amount of the tax refund payable under that subsection is less than \$10, the amount of the tax refund payable is deemed to be nil.

Determination period

- 187** (1) The commissioner may determine the amount of any tax credit, or determine and impose an assessable amount, in respect of a taxation year within the following time periods:
- (a) the later of the following:
 - (i) 4 years after the date the initial notice of determination for the taxation year is sent under section 189 (1) [*notice of determination*];
 - (ii) one year after the earlier of the following if the corporation is issued a notice of assessment:
 - (A) the day on which the commissioner receives notification from the corporation under section 190 [*notice to commissioner of subsequent assessment*];
 - (B) the day on which the commissioner receives notification from the taxing authority under this Act that the corporation has been issued a notice of assessment;
 - (b) at any time,
 - (i) if a person has made any misrepresentation or committed any fraud in filing the corporation's application or supplying information or records under this Part,
 - (ii) if a waiver filed under subsection (2) by the corporation for the taxation year is in effect at that time,

(iii) to give effect to a waiver or cancellation under section 193 *[waiver or cancellation of penalty]*, or

(iv) to give effect to a decision of the Provincial minister under section 201 *[appeal to Provincial minister]* or a decision of a court under section 202 *[appeal to court]*.

(2) A corporation may, before the expiration of the period referred to in subsection (1) (a) (i) for a taxation year, file with the commissioner a waiver for the taxation year.

(3) A waiver filed under subsection (2) by a corporation continues in effect until 6 months after the corporation files with the commissioner a notice revoking the waiver.

(4) A waiver filed under subsection (2) and a notice filed under subsection (3) must be filed in the form and manner, and containing the information, required by the commissioner.

(5) If a notice of determination under this Part reflecting the application of section 68.1 (2) *[anti-avoidance rule]* to a transaction has been sent to a person, any other person is entitled, within 180 days after the date of the sending of that notice, to request in writing that the commissioner determine the amount of any tax credit, or determine and impose an assessable amount, applying section 68.1 (2) with respect to the transaction.

(6) On receipt of a request by a person under subsection (5), the commissioner must consider the request and determine the amount of any tax credit or determine and impose an assessable amount, as the case may be, with respect to the person, despite the expiry of any time limit under this section, except that a determination may be made under this subsection only to the extent that it may be reasonably regarded as relating to a transaction referred to in subsection (5).

Rules relating to determinations

188 (1) Despite a prior determination, or if no determination has been made, a corporation continues to be liable for an amount owing to the government under this Part.

(2) In determining the amount of any tax credit, or in determining and imposing an assessable amount, as the case may be, the commissioner

(a) is not bound by an application or other information or records supplied by or on behalf of a corporation, and

(b) may make the determination or impose the assessable amount despite the supply of the application or other information or records by or on behalf of the corporation.

(3) Subject to being amended or varied on appeal or by a redetermination, a determination is valid and binding despite any error, defect or omission in the determination or in procedure.

Notice of determination

- 189** (1) After determining the amount of any tax credit for a taxation year in respect of a corporation, the commissioner must send to the corporation a notice of determination that specifies the amount of the tax credit for the taxation year.
- (2) After determining and imposing an assessable amount in respect of a corporation, the commissioner must send to the corporation a notice of determination that includes a statement of the assessable amount.
- (3) Evidence that a notice of determination has been sent is proof, in the absence of evidence to the contrary, that any assessable amounts specified in the notice of determination are due and owing, and the onus of proving otherwise is on the corporation liable to pay those amounts.

Notice to commissioner of subsequent assessment

- 190** If a corporation is issued a notice of assessment that changes an amount relevant to the calculation of the corporation's tax credit under this Part, the corporation, within 90 days after the notice was issued or within a later period approved by the commissioner, must
- (a) file with the commissioner a notice in the form and manner, and containing the information, required by the commissioner, and
 - (b) include with the notice any other information or records required by the commissioner.

Imposition of administrative penalty

- 191** The commissioner may determine and impose a penalty on a corporation that is liable to a penalty under section 192.

Administrative penalties

- 192** (1) In this section, "**excess refund**" means the amount by which the tax refund under this Part that would have been claimed by the corporation, if the tax refund had been calculated on the basis of the information provided in the application, return, report, notice or other record, exceeds the tax refund that the corporation is entitled to receive.
- (2) A corporation that knowingly or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed under this Part makes, or participates in, assents to or acquiesces in the making of, a statement or omission in an application, return, report, notice or other record supplied to the commissioner that results in an excess refund is liable to a penalty equal to 50% of the amount of the excess refund.
- (3) A corporation that fails to file with the commissioner a notice in accordance with section 190 [*notice to commissioner of subsequent assessment*] is liable, in respect of each failure, to a penalty equal to the greater of
- (a) \$100, and

(b) \$25 for each day after which the notice was required to be filed under that section, to a maximum of \$2 500.

Waiver or cancellation of penalty

193 The commissioner may at any time waive or cancel all or part of any penalty otherwise payable by a corporation under this Part.

Interest payable to government under this Part

194 (1) In this section, "**loss carryback**" means

(a) a deduction of an amount under section 111 of the federal Act that relates to a subsequent taxation year, or

(b) a deduction of an amount referred to in section 99 (3) (c) [*non-refundable tax credit available*] of this Act.

(2) If an amount is deemed under section 198 [*excess refund*] to be an amount payable by a corporation, the corporation is liable to pay interest on the amount as follows:

(a) subject to paragraph (b) of this subsection, from the date the amount became payable under that section until the date of payment;

(b) if the amount arises from a loss carryback, from the date the corporation's tax payable under this Act for the taxation year is reassessed as a consequence of the loss carryback until the date of payment.

(3) A corporation must pay to the government interest on a penalty imposed under this Part as follows:

(a) in the case of a penalty under section 192 (2) [*gross negligence*], from the date on which the application, return, report, notice or other record was filed or supplied until the date of payment;

(b) in the case of any other penalty, from the date of the notice of determination that specifies the amount of the penalty imposed until the date of payment.

(4) Interest payable to the government under this Part must be calculated at the prescribed rate and in the prescribed manner.

No interest if full payment within 30 days

195 Despite any other provision of this Part, if

(a) a notice of determination or statement of account sent to a corporation by the commissioner specifies an amount that is owing to the government under this Part by the corporation, and

(b) the corporation, within 30 days after the date on the notice of determination or statement of account, pays the amount owing in full,

interest is not payable on the amount owing from the date on the notice of determination or statement of account until the date of payment.

Waiver or cancellation of interest

196 The commissioner may at any time waive or cancel all or part of any interest otherwise payable under this Part by a corporation.

Interest on tax refunds

197 (1) In this section, "**interest date**" means, in respect of a taxation year, the date that is the earlier of the following:

(a) the date that is 61 days after the date the corporation complies with section 183 (2) (a) and (b) [*application for tax credit*] for the taxation year;

(b) the date that is 31 days after the date the initial notice of determination for the taxation year is sent under section 189 (1) [*notice of determination*].

(2) If the Provincial minister has not paid to the corporation a tax refund for a taxation year by the interest date, the minister must pay, out of the consolidated revenue fund, interest on the unpaid amount, calculated at the prescribed rate and in the prescribed manner beginning on the interest date.

Excess refund

198 If it appears from an inspection, audit, examination or investigation or from other information available to the commissioner that an amount has been refunded to a corporation in excess of the amount to which the corporation was entitled as a refund under this Part, the excess is deemed to be an amount that became payable by the corporation to the government on the day on which the amount was refunded.

Liability for amounts owing to government

199 A corporation is liable to pay to the government the following:

(a) the amount by which the tax refund under this Part that was paid to or on behalf of the corporation or set-off under the *Financial Administration Act* exceeds the tax refund that the corporation is entitled to receive;

(b) the amount of any penalties imposed on the corporation under section 191 [*imposition of administrative penalty*];

(c) the amount of any interest payable by the corporation to the government under this Part.

Collection of amounts owing to government

200 Part 5 [*Recovery of Amounts Owing*] of the *Employer Health Tax Act* applies for the purpose of collecting an amount that is owing to the government under this

Part.

Appeal to Provincial minister

201 (1) A corporation may appeal the following to the Provincial minister:

- (a) a determination of a tax credit under section 184;
- (b) an imposition of a penalty under section 191;
- (c) a determination under section 84 (13) of the *Employer Health Tax Act* as that section applies for the purposes of this Part.

(2) An appeal under subsection (1)

- (a) must be made within 90 days after the date on the notice of determination in respect of the matter being appealed, and
- (b) must be made by serving a notice of appeal on the Provincial minister by mailing the notice to that minister.

(3) The appellant must set out in the notice of appeal a statement of all material facts and the reasons in support of the appeal.

(4) On receipt of all relevant information from the commissioner and of the notice of appeal, the Provincial minister must

- (a) confirm, reverse or vary the commissioner's decision or determination, and
- (b) notify the appellant in writing of the minister's decision.

Appeal to court

202 (1) A decision of the Provincial minister under section 201 (4) may be appealed to the Supreme Court by way of a petition proceeding.

(2) The Supreme Court Civil Rules relating to petition proceedings, other than Rule 18-3, apply to appeals under this section.

(3) A petition must be filed in the court registry within 90 days after the date of the Provincial minister's decision.

(4) In a petition filed under this section, the government must be designated "Her Majesty the Queen in right of the Province of British Columbia".

(5) Within 14 days after the filing of a petition under this section, the petition must be served on the government in accordance with section 8 of the *Crown Proceeding Act*.

(6) An appeal under this section is a new hearing that is not limited to the evidence and issues that were before the Provincial minister.

(7) The court may

- (a) dismiss the appeal,
- (b) allow the appeal,
- (c) vary the decision from which the appeal is made, or

(d) refer the decision back to the commissioner for reconsideration.

(8) An appeal lies from a decision of the court to the Court of Appeal with leave of a justice of the Court of Appeal.

Irregularities

203 A determination made under this Part must not be varied or disallowed by a court because of an irregularity, informality, omission or error on the part of a person in the observation of any directory provision up to the date of the notice of determination.

Collection of amounts owing not affected by pending appeal

204 Neither the giving of a notice of appeal by a person nor a delay in the hearing of an appeal

(a) affects the date an amount that is owing to the government under this Part and that is the subject matter of the appeal is payable under this Part,

(b) affects the amount of interest payable on an amount that is owing to the government under this Part and that is the subject matter of the appeal, or

(c) delays the collection of an amount that is owing to the government under this Part and that is the subject matter of the appeal, or any interest payable under this Part on that amount.

If decision set aside or amount reduced on appeal

205 If the commissioner's or Provincial minister's decision is set aside, or an amount determined under this Part or owing to the government under this Part is reduced or varied on appeal, the Provincial minister must refund any excess amount paid to the appellant from the consolidated revenue fund.

Division 5 – General

Administration

206 (1) Despite any collection agreement, the Provincial minister must administer and enforce this Part.

(2) Despite section 69 (3) [*collection agreement*], the federal minister is not authorized to use, perform or exercise any of the powers, duties or discretions of the Provincial minister under this Part.

Powers of audit

207 Without limiting any provision of this Act or the federal Act, for the purpose of determining an amount under this Part, the commissioner has powers equivalent to

the federal minister under sections 231 to 231.5, 231.7 and 233 (1) of the federal Act, and for that purpose those sections apply.

Delegation of powers

208 (1) The commissioner may authorize any other officer of the ministry to perform and exercise duties imposed and powers conferred on the commissioner by this Part as may in the commissioner's opinion be conveniently performed or exercised by that officer.

(2) The performance or exercise by the officer authorized under subsection (1) of the duties or powers referred to in that subsection is of the same effect as if they were performed or exercised by the commissioner.

Collection and sharing of information

209 Without limiting any provision of this or any other enactment, the Provincial minister, the minister charged with the administration of the *Petroleum and Natural Gas Act* and the Oil and Gas Commission may

(a) collect any information that is relevant to the administration or enforcement of this Part, and

(b) share with each other, in accordance with an information-sharing agreement entered into in accordance with section 65 [*information-sharing agreements*], any information that is relevant to the administration or enforcement of this Part.

Application of other provisions

210 (1) A tax credit under this Part is not to be considered in applying any of the following provisions:

(a) section 33 [*payments by corporation*];

(b) section 34 [*returns, payments and interest*];

(c) section 35 [*refund for tax credits*];

(d) section 36 [*amount on which instalment calculated*];

(e) section 37 [*failure to file return or corporate return and failure to provide information*];

(f) section 39 [*penalty for late or deficient instalments*];

(g) section 39.1 [*misrepresentation of tax matter by third party*];

(h) section 40 [*refunds*].

(2) The following provisions do not apply for the purposes of this Part, except to the extent provided in this Part:

(a) section 1 (8.1) [*interpretation in respect of collection agreements*];

(b) section 29 [*returns of income and assessments of tax*];

(c) section 30 [*reassessment and amended return*];

- (d) section 38 *[failure to report income, false statement or omission and burden of proof on appeal]*;
- (e) section 41 *[objections to assessments and extension of time]*;
- (f) section 42 *[appeal by taxpayer]*;
- (g) section 43 *[reply]*;
- (h) section 44 *[procedure]*;
- (i) section 45 *[irregularities, extension of time and private hearings]*;
- (j) section 46 *[court practice]*;
- (k) section 47 *[administration, interest, garnishment and proceedings to collect]*;
- (l) section 49 *[debts to Her Majesty]*;
- (m) section 50 *[certificates]*;
- (n) section 51 *[warrant]*;
- (o) section 52 *[acquisition of debtor's property]*;
- (p) section 53 *[payment of money seized from tax debtor]*;
- (q) section 54 *[seizure of goods]*;
- (r) section 55 *[taxpayer leaving Canada or defaulting]*;
- (s) section 59 *[inspections, privilege, information returns and corporate execution]*;
- (t) section 61 *[offence and penalty]*;
- (u) section 62 *[further offences]*;
- (v) section 68 (3) *[procedure and evidence]*;
- (w) section 70 *[payments on account]*.

Volume, heating value and sampling of natural gas

- 211** (1) For the purposes of this Part, a measurement of a volume of natural gas is to be expressed per 1 000 m³ at standard conditions of 101.325 kPa and 15 C and rounded to one decimal place.
- (2) For the purposes of this Part, the heating value of natural gas is to be expressed in gigajoules per 1 000 m³.
- (3) For the purposes of this Part, the measuring and taking of samples of natural gas is to be made in accordance with the regulations made under the *Oil and Gas Activities Act*.

When documents are filed with or given to commissioner or Provincial minister

- 212** (1) If, under this Part, a document must or may be filed with or given to the commissioner or Provincial minister, the document is conclusively deemed to be filed

or given on the date it is received by the commissioner or minister, as the case may be.

(2) If, under this Part, a document must or may be given to the Provincial minister, the document is conclusively deemed to have been given if delivered to the office of the deputy Provincial minister.

Power to make regulations

213 (1) Without limiting section 48 (1) and (2) [*power to make regulations*], the Lieutenant Governor in Council may make regulations as follows:

- (a) prescribing an amount of LNG for the purposes of paragraph (b) of the definition of "major LNG facility" in section 172 [*definitions*];
- (b) prescribing activities for the purposes of paragraph (b) (v) of the definition of "qualifying corporation" in section 172;
- (c) prescribing a type or class of corporation for the purposes of the definition of "qualifying corporation" in section 172;
- (d) prescribing a percentage for the purposes of section 173 (4) [*natural gas tax credit*];
- (e) designating a meter station in respect of a major LNG facility for the purposes of paragraph (b) of the definition of "feedstock pipeline inlet" in section 177 [*definitions*];
- (f) prescribing a reference point for the purposes of the definition of "reference point" in section 177;
- (g) prescribing interest rates and the manner of calculating interest for the purposes of this Part;
- (h) defining a word or expression used but not defined in this Part.

(2) For the purposes of section 180 [*notional cost of natural gas notionally acquired in month*], the Lieutenant Governor in Council may make regulations as follows:

- (a) respecting the determination of a pipeline fuel and losses adjustment in respect of a major LNG facility;
- (b) respecting the determination of the reference price for a month in respect of natural gas acquired in the month at the reference point, including, without limitation, price indices and other matters the minister must consider in determining the reference price.

(3) In making regulations under this Part, the Lieutenant Governor in Council may do one or more of the following:

- (a) delegate a matter to a person;
- (b) confer a discretion on a person;
- (c) define classes of corporations or major LNG facilities and make different regulations for different classes of corporations or major LNG

facilities.

(4) A regulation made under this Part may be made retroactive to January 1, 2020 or a later date, and if made retroactive is deemed to have come into force on the specified date.

Related Repeals

Acts repealed

Explanatory Note

4 The following Acts are repealed:

(a) *Liquefied Natural Gas Income Tax Act*, S.B.C. 2014, c. 34;

(b) *Liquefied Natural Gas Project Agreements Act*, S.B.C. 2015, c. 29.

Commencement

5 This Act comes into force on the date of Royal Assent.

Explanatory Notes

SECTION 1: **[Income Tax Act, section 65]** is consequential to the addition by this Bill of section 209 of the Act.

SECTION 2: **[Income Tax Act, section 68.1]** is consequential to the addition by this Bill of Part 13 of the Act.

SECTION 3: **[Income Tax Act, Part 13]**

- provides for a natural gas tax credit under the Act for qualifying corporations for taxation years that begin on or after January 1, 2020;
- provides for the calculation of the tax credit as a percentage, including a prescribed percentage, if any, of the corporation's cost of natural gas, subject to a specified cap on the amount of the tax credit;
- provides for specific rules for determining the cost of natural gas;
- provides for the administration and enforcement of the new tax credit;
- provides regulation-making authority for the purposes of the new tax credit.

SECTION 4: **[Liquefied Natural Gas Income Tax Act and Liquefied Natural Gas Project Agreements Act]** repeals the Acts.