

BILL NO. 30

(as passed, with amendments)



*2nd Session, 58th General Assembly
Nova Scotia
50 Elizabeth II, 2001*

Government Bill

Financial Measures (2001) Act

CHAPTER 3 OF THE ACTS OF 2001

The Honourable Neil J. LeBlanc
Minister of Finance

[First Reading](#): April 12, 2001

Second Reading: May 3, 2001

[Third Reading](#): May 28, 2001 (WITH COMMITTEE AMENDMENTS)

Royal Assent: June 1, 2001



An Act Respecting Certain Financial Measures

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Financial Measures (2001) Act*.

PART I

ASSESSMENT ACT

2 Subsection 15(1) of Chapter 23 of the Revised Statutes, 1989, the *Assessment Act*, is amended by striking out "in the Department of Municipal Affairs" in the first and second lines.

3 (1) Section 179 of Chapter 23 is amended by adding immediately after clause (c) the following clauses:

(ca) providing for cost recovery for assessment services;

(cb) establishing an agency for the delivery of assessment services and providing for the management of that agency by a board appointed by or on behalf of the Government of the Province or the municipalities of the Province, or both;

(2) A regulation made pursuant to clause 179(ca) of Chapter 23 within one year of this Section coming into force may, if it so provides, be made retroactive in its operation to a day not earlier than April 1, 2001.

PART II

CHILDREN AND FAMILY SERVICES ACT

4 (1) Subsection 99(1) of Chapter 5 of the Acts of 1990, the *Children and Family Services Act*, as amended by Chapter 7 of the Acts of 1994-95 and Chapter 3 of the Acts of 1996, is further amended by adding immediately after clause (z) the following clause:

(za) providing for the charging of a fee for a search under the Child Abuse Register for employment purposes;

(2) Section 99 of Chapter 5, as amended by Chapter 7 of the Acts of 1994-95 and Chapter 3 of the Acts of 1996, is further amended by adding immediately after subsection (1) the following subsection:

(1A) For greater certainty, no fee referred to in clause (1)(za) shall be charged to any non-profit or charitable organization.

PART III

EQUITY TAX CREDIT ACT

5 Section 2 of Chapter 3 of the Acts of 1993, the *Equity Tax Credit Act*, as amended by Chapter 2 of the Acts of 1995, Chapter 3 of the Acts of 1997 and Chapter 4 of the Acts of 2000, is further amended by

(a) striking out subclause (h)(i) and substituting the following subclause:

(i) in the case of a corporation or a community economic-development corporation, fully paid, newly issued voting common shares of the corporation, issued on or before the thirty-first day of December, 2003, that are non-redeemable, are non-convertible, are not restricted in profit sharing or participation upon dissolution and are not eligible for a tax credit allowed pursuant to the *Income Tax Act* (Canada) or a deduction from income pursuant to that Act other than a deduction pursuant to subsection 146(5) of that Act,

(b) striking out "2000" in the third line of subclause (h)(ii) and substituting "2003"; and

(c) striking out clause (j) and substituting the following clause:

(j) "replacement share" means a share issued as part of a specified issue where the purchaser has, at any time

between the thirtieth day of September, 1993, and the thirty-first day of December, 2003, disposed of a share of any class of the eligible business;

6 Subsection 6(1) of Chapter 3, as amended by Chapter 3 of the Acts of 1997 and Chapter 4 of the Acts of 2000, is further amended by

(a) striking out "where the eligible business is a community economic-development corporation," in the first and second lines of clause (a); and

(b) striking out clause (aa).

7 Subsection 15(1) of Chapter 3 is amended by adding "to an eligible investor on or before the thirty-first day of December, 2003," immediately after "shares" in the second line.

8 Subsection 18(1) of Chapter 3, as amended by Chapter 5 of the Acts of 1996 and Chapter 4 of the Acts of 2000, is further amended by adding "to an eligible investor on or before the thirty-first day of December, 2003" immediately after "shares" in the third line.

PART IV

FINANCIAL MEASURES (2000) ACT

9 Section 97 of Chapter 4 of the Acts of 2000, the *Financial Measures (2000) Act*, is amended by adding immediately after subsection (5) the following subsection:

(6) Sections 21 to 60, except for those provisions referred to in subsections (1) to (5), have effect on and after December 31, 1999.

PART V

INCOME TAX ACT

10 The description of D in subsection 13(1) of Chapter 217 of the Revised Statutes, 1989, the *Income Tax Act*, as enacted by Chapter 4 of the Acts of 2000, is amended by adding "the greater of \$2,000 or" immediately after "is" in the first line.

11 Clause 39(1)(b) of Chapter 217 is repealed and the following clause substituted:

(b) the percentage referred to in paragraph (b) of the description of A in the formula in the definition "refundable capital gains tax on hand" in subsection 132(4) of the Federal Act for the year.

12 Clause 41(1)(a) of Chapter 217, as enacted by Chapter 4 of the Acts of 2000, is amended by

(a) striking out the semicolon at the end of subclause (ii) and substituting a comma; and

(b) adding "and, for greater certainty, for the purpose of this clause and paragraph (h) of subsection 127(9) of the Federal Act, the reference to "government assistance" in subsections 127(18), (19) and (20) of the Federal Act does not include the research and development tax credit determined pursuant to this Section;" immediately after subclause (ii).

13 Section 42 of Chapter 217, as enacted by Chapter 4 of the Acts of 2000, is amended by adding immediately after subsection (13) the following subsection:

(14) The Governor in Council may make regulations

(a) prescribing the terms and conditions of eligibility of a corporation for the deduction, in addition to any eligibility requirements set out in this Section;

- (b) determining the order in which a corporation is required to take the deduction provided for in this Section;
- (c) respecting the time limits within which an application for the deduction is to be made by a corporation.

14 Subsection 49(10) of Chapter 217 is repealed and the following subsection substituted:

(10) The Governor in Council may make regulations respecting

- (a) the capital costs of a qualified property primarily incurred on or before December 31, 2000, which may be deducted pursuant to this Section;
- (b) the deduction of capital costs of a qualified property with respect to a project initiated before January 1, 2003, and completed after that date.

15 Section 70 of Chapter 217, as enacted by Chapter 4 of the Acts of 2000, is amended by striking out "181(3)" in the first line and substituting "181(2), (3)".

16 (1) Subsection 71(1) of Chapter 217, as enacted by Chapter 4 of the Acts of 2000, is amended by adding ", other than a corporation described in paragraphs (a) or (c) in the definition of "financial institution" in subsection 181(1) or subsection 181.1(3) of the Federal Act," immediately after "corporation" in the first line.

(2) Subsection 71(2) of Chapter 217, as enacted by Chapter 4 of the Acts of 2000, is amended by

- (a) adding "determined" immediately after "year" in the fourth and in the fifth lines of clause (a); and
- (b) adding "determined" immediately after "year" in the fifth and in the seventh lines of clause (b).

(3) Subsections 71(3) and (4) of Chapter 217 are repealed and the following subsections substituted:

(3) For the purpose of determining taxable capital employed in the Province, the proportion is determined by the formula

$$\frac{A}{B}$$

where

A is the taxable income earned in the year in the Province determined in accordance with Part IV of the Federal Income Tax Regulations determined without reference to this Part; and

B is the total of all amounts each of which is the amount determined in accordance with Part IV of the Federal Income Tax Regulations of the corporation's taxable income earned in the year in a particular province or the amount of its taxable income that would, pursuant to that Part, be earned in the year in a province if all permanent establishments in Canada were in a province, determined without reference to this Part, except that, where the corporation's taxable income for the year is nil, the corporation shall, for the purpose of this subsection, be deemed to have a taxable income for the year of \$1,000.

(4) Taxable capital for the year means

- (a) in the case of a resident corporation, other than a financial institution, the taxable capital employed in Canada determined in accordance with section 181.2 of the Federal Act and without reference to this Part;
- (b) in the case of a non-resident corporation, other than a financial institution, the taxable capital employed in Canada determined in accordance with section 181.4 of the Federal Act; or

(c) in the case of a corporation that is defined as a financial institution under the Federal Act but not under this Part, the taxable capital employed in Canada determined in accordance with section 181.3 of the Federal Act.

17 (1) Clause 72(1)(a) of Chapter 217, as enacted by Chapter 4 of the Acts of 2000, is amended by striking out "employed in Canada" in the second line.

(2) Subsection 72(2) of Chapter 217, as enacted by Chapter 4 of the Acts of 2000, is amended by striking out "employed in Canada as defined in" in the tenth and eleventh lines and substituting "for the year as determined under".

18 Section 73 of Chapter 217 is repealed.

PART VI

MUNICIPAL GRANTS ACT

19 Section 20 of Chapter 302 of the Revised Statutes, 1989, the *Municipal Grants Act*, is repealed.

PART VII

REVENUE ACT

20 Subsection 34(1) of Chapter 17 of the Acts of 1995-96, the *Revenue Act*, as amended by Chapter 21 of the Acts of 1996, Chapter 3 of the Acts of 1997, Chapter 13 of the Acts of 1998 and Chapter 5 of the Acts of 1999 (2nd Session), is further amended by

(a) striking out "four and eighty-two" in the first line of clause (a) and substituting "six and seventy-seven";

(b) striking out "three and thirty-five" in the first line of clause (b) and substituting "four and seventy-one"; and

(c) striking out "three and eighty" in the first line of clause (c) and substituting "five and thirty-four".

21 Section 35 of Chapter 17 is amended by adding "or" immediately after clause (a).

22 Section 76 of Chapter 17 is amended by adding immediately after clause (a) the following clause:

(aa) "compliance officer" means a compliance officer appointed by the Commissioner;

23 Chapter 17 is further amended by adding immediately after Section 76 the following Section:

76A A compliance officer, in carrying out duties pursuant to this Act, has and may exercise in any part of the Province all of the powers, authorities and immunities of a peace officer as defined in the *Criminal Code* (Canada).

24 Section 77 of Chapter 17 is amended by

(a) adding "or compliance officers" immediately after "auditors" in the third line; and

(b) adding "or compliance officer" immediately after "auditor" in the fourth line.

25 Subsection 78(1) of Chapter 17 is amended by adding "or compliance officer" immediately after "auditor" in the first line.

26 Chapter 17 is further amended by adding immediately after Section 78 the following Section:

78A For the purpose of administering and enforcing Part I of this Act and the regulations, a compliance officer, or person appointed by the Commissioner, may, without warrant, examine any internal combustion engine and its

fuel system or any apparatus or storage facility that contains gasoline or diesel oil and take and retain samples of that gasoline or diesel oil.

27 (1) Subsection 79(1) of Chapter 17 is amended by adding "or compliance officer" immediately after "auditor" in the first and in the fourth lines.

(2) Subsection 79(2) of Chapter 17 is amended by

(a) adding "or compliance officer" immediately after "auditor" in the sixth line;

(b) striking out "in respect of which the tax has not been paid" in the fourth and fifth lines of clause (a); and

(c) adding ", compliance officer" immediately after "auditor" in the first line of clause (b).

(3) Subsection 79(3) of Chapter 17 is amended by

(a) adding ", compliance officer" immediately after "auditor" in the fourth and in the sixth lines; and

(b) adding "or compliance officer" immediately after "auditor" in the third last line.

(4) Subsection 79(4) of Chapter 17 is amended by adding "or compliance officer" immediately after "auditor" in the first line.

28 Subsection 80(1) of Chapter 17 is amended by adding "or compliance officer" immediately after "auditor" in the seventh line.

29 Subsection 81(1) of Chapter 17 is amended by adding "or compliance officer" immediately after "auditor" in the fifth line.

30 Section 83 of Chapter 17 is amended by

(a) adding immediately after clause (c) the following clause:

(ca) to the Department of Health for the purpose of administering or enforcing the *Tobacco Access Act* or the *Tobacco Act* (Canada);

and

(b) striking out "and" the second time it appears in the second line of subclause (d)(i).

31 Section 89 of Chapter 17 is repealed and the following Section substituted:

89 (1) Every person who contravenes Part III of this Act where no fine is otherwise specifically provided is liable on summary conviction to a fine of not less than two hundred and fifty dollars and not more than five thousand dollars.

(2) Subject to subsection (3), a person who unlawfully possesses, purchases, acquires or stores tobacco, in contravention of this Act, commits an offence and is liable

(a) for a first conviction, if the quantity of tobacco is fifty cartons of cigarettes or less or capable of making cigarettes in this quantity, to

(i) a fine of not less than five hundred dollars and not more than twenty-five hundred dollars, and

(ii) a fine equal to three times the tax that would have been due had the tobacco been sold to taxable consumers,

and, in default of payment, to imprisonment for a term not exceeding ninety days;

(b) for a first conviction, if the quantity of tobacco is greater than fifty cartons of cigarettes or capable of making cigarettes in this quantity, to

(i) a fine of not less than twenty-five hundred dollars and not more than twenty-five thousand dollars, and

(ii) a fine equal to three times the tax that would have been due had the tobacco been sold to taxable consumers,

and, in default of payment, to imprisonment for a term not exceeding one hundred and eighty days;

(c) for a subsequent conviction for an offence under this subsection, to

(i) a fine of not less than five thousand dollars and not more than one hundred thousand dollars, and

(ii) a fine equal to three times the tax that would have been due had the tobacco been sold to taxable consumers,

and, in default of payment, to imprisonment for a term not exceeding one year.

(3) A manufacturer of tobacco, a wholesale vendor or an employee of a manufacturer of tobacco or a wholesale vendor who contravenes Part III of this Act is liable, on summary conviction, to a fine of not less than five thousand dollars and not more than one hundred thousand dollars and, in default of payment, to imprisonment for a term not exceeding two years, and in any event shall, in addition, be ordered by the judge to pay the amount of the tax that is owing, including any arrears, penalties and interest on or before such date as is fixed by the judge.

(4) A person who fails to collect the tax imposed by Part III of this Act is liable, on summary conviction, to a fine equal to the amount of the tax, including any arrears, penalties and interest that should have been collected as determined pursuant to this Act and, in addition, to a penalty of not less than twenty-five hundred dollars and not more than twenty-five thousand dollars and, in default of payment, to imprisonment for a term not exceeding one year.

PART VIII

THEATRES AND AMUSEMENTS ACT

32 Clause 11(8)(b) of Chapter 466 of the Revised Statutes, 1989, the *Theatres and Amusements Act*, is amended by adding "or account for the moneys in such other manner as prescribed by the Governor in Council" immediately after "tax" in the last line.

PART IX

EFFECTIVE DATES

33 (1) Section 12 has effect on and after April 11, 2000.

(2) Section 20 has effect on and after April 6, 2001.

